

► Assessment of Legal Labour Migration Frameworks in Africa



Funded by:

- ▶ **Assessment of Legal Labour Migration Frameworks in Africa**

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► Acronyms

ACHPR	African Charter on Human and People’s Rights
ACHPR/RW	African Charter on Human and People’s Rights on the Rights of Women in Africa
ACmHPR	African Commission on Human and Peoples’ Rights
AEC	African Economic Community
AfCFTA	Agreement Establishing the African Continental Free Trade Area
ALMS	African Labour Migration Survey
AMU	Arab Maghreb Union
ANAPEC	National Agency for the Promotion of Employment and Skills
APSA	African Peace and Security Architecture
ASMAK	Association of Skilled Migrant Agencies of Kenya
AU	African Union
AU-FMPP	Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Rights of Residence and Right of Establishment
BLA	Bilateral Labour Agreement
CBO	Community Based Organisation
CBC	COMESA Business Council
CCJA	Common Court of Justice and Arbitration
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEMAC	Central African Economic and Monetary Community
CEN-SAD	Community of Sahel-Saharan States
CIPRES	Inter-African Conference on Social Welfare
CGI	Comptroller General of Immigration
CMP	Common Market Protocol
COMESA	Common Market for Eastern and Southern Africa
COVID-19	Coronavirus Disease 2019
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DHA	Department of Home Affairs
DRC	Democratic Republic of Congo
EABC	East African Business Council
EAC	East Africa Community
EAC CMP	East African Community Common Market Protocol
EACSF	East African Civil Society Forum
EATUF	East African Trade Union Federation
EAEO	East African Employers Organisation
EAUTFC	East African Union Trade Confederation
ECCAS	Economic Community of Central African States
ECCAS FMPP	Economic Community of Central African States Free Movement of Persons Protocol
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EIIP	Employment Intensive Investment Programme
FESTU	Federal Somali Trade Union
FKE	Federation of Kenyan Employers
FMPP	Free Movement of Persons Protocol
FOO	Fondation Orient-Occident
GADEM	Anti-Racist Group for the Accompaniment and Defence of Foreigners and Migrants
GBV	Gender Based Violence
GCC	Gulf Cooperation Council
GCM	Global Compact for Safe, Orderly and Regular Migration
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICCPR	International Covenant on Civil and Political Rights

ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
ILMS	International Labour Migration Survey
ILO	International Labour Organization
IOM	International Organisation for Migration
IRIS	International Recruitment Integrity System
JLMP	Joint Labour Migration Programme
KII	Key Informant Interview
LMAC	Labour Migration Advisory Committee
MIDWA	Migration Dialogue for West Africa
MINPROFF	Ministry for the Promotion of Women and Family
MIWUSA	Migrant Workers Organisation of South Africa
MoL	Ministry of Labour and Administrative Reform
MoU	Memorandum or Memoranda of Understanding
MPFA	Migration Policy Framework for Africa
NCDs	Non-Communicable Diseases
NITA	National Industrial Training Authority
NEPAD	New Partnership for Africa's Development
NGO	Non Governmental Organisation
OAU	Organisation of African Unity
OHADA	Organisation for the Harmonisation of African Business Law
ORION	Operationalizing an Integrated Approach to Reintegration
PDOs	Pre-departure Orientation Programmes
PES	Public Employment Service
PTA	Preferential Trade Area
PRA	Private Recruitment Agency
Ras	Recruitment Agencies
RAS	Refugee Affairs Secretariat (Kenya)
RCK	Refugee Consortium of Kenya
RECs	Regional Economic Communities
SADC	Southern Africa Development Community
SAMM	Southern Africa Migration Management
SDGs	Sustainable Development Goals
SGBV	Sexual Gender Based Violence
SOCOTU	Somali Congress of Trade Unions
TFPGL	Trade Facilitation Project in the Great Lakes Region
TVET	Technical and Vocational Education and Training
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commissioner For Refugees
USD	United States Dollar
WHO	World Health Organisation
WCTU	Zimbabwe Congress of Trade Unions
YWEP-A	AU Youth and Women Employment Pact for Africa

Glossary of terms¹

Circular migration: The temporary movements of a repetitive character either formally or informally across borders. Managed or regulated circular migration programmes have emerged as a migration policy tool to mitigate the effects of brain drain and promote development in origin countries through a steady flow of remittances, return of skilled workers, and support for enterprise development.

Climate migration: The movement of a person or groups of persons who, predominantly for reasons of sudden or progressive change in the environment due to climate change, are obliged to leave their habitual place of residence, or choose to do so, either temporarily or permanently, within a State or across an international border.

Consular protection and assistance (right to): The right to the provision of adequate consular and other services that are necessary to meet the social, cultural, and other needs of nationals abroad or to protect their rights against any infringements by the receiving State.

Discrimination: Any distinction, exclusion, restriction, or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

Documented migrant worker: A migrant worker or members of his or her family authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party.

Freedom of movement (right to): In human rights law, a human right comprising three basic elements: freedom of movement within the territory of a country and to choose one's residence, the right to leave any country and the right to return to one's own country.

Gender equality: The equal rights, responsibilities, and opportunities of all individuals regardless of their gender identity

Human rights: Universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements, and human dignity.

Irregular migration: Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit, or destination.

Labour migration: Movement of persons from one State to another, or within their own country of residence, for the purpose of employment.

Labour standards: International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers, and workers) that set out basic principles and rights at work. The labour standards are adopted at the ILO's annual International Labour Conference. They are either conventions or recommendations.

Migrant worker: A person who is engaged in a remunerated activity in a State of which he or she is not a national.

¹ Source: Adapted from IOM's Key Migration Terms. <https://www.iom.int/key-migration-term>

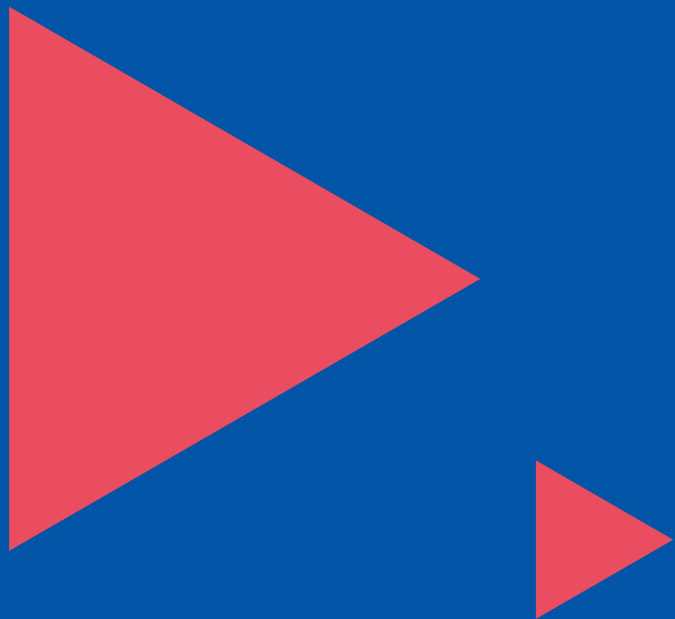
Migration governance: The combined frameworks of legal norms, laws and regulations, policies, traditions, and organisational structures (subnational, national, regional, and international) and the relevant processes that shape and regulate States' approaches regarding migration in all its forms, addressing rights and responsibilities and promoting international cooperation.

Safe, orderly and regular migration: Movement of persons in keeping both with the laws and regulations governing exit from, entry and return to and stay in States and with States' international law obligations, in a manner in which the human dignity and well-being of migrants are upheld, their rights are respected, protected and fulfilled and associated risks are mitigated.

Vulnerability: Within a migration context, vulnerability is the limited capacity to avoid, resist, cope with, or recover from harm. This limited capacity is the result of the unique interaction of individual, household, community, and structural characteristics and conditions. Vulnerability derives from a range of intersecting and co-existing personal, social, situational, and structural factors.

▶ 1

▶ Introduction



Background

WHY A CONTINENTAL ASSESSMENT? At the 2015 Joint Programme on Labour Migration Governance for Development and Integration Conference, the African Union (AU), the International Labour Organization (ILO), the International Organisation for Migration (IOM), and the United Nations Economic Commission for Africa (UNECA) adopted the Joint Labour Migration Governance Programme for Regional Integration and Development in Africa (JLMP), which promotes the facilitation of free movement of workers in support of regional integration and development. The JLMP is a key implementing instrument of the AU's Migration Policy Framework for Africa (MPFA) and Action Plan 2018-2030 – with a priority project 2018-2021 to improve labour migration governance in line with SDG 10.7 on safe, orderly and regular migration as committed to in AU and Regional Economic Communities (RECs) frameworks.²

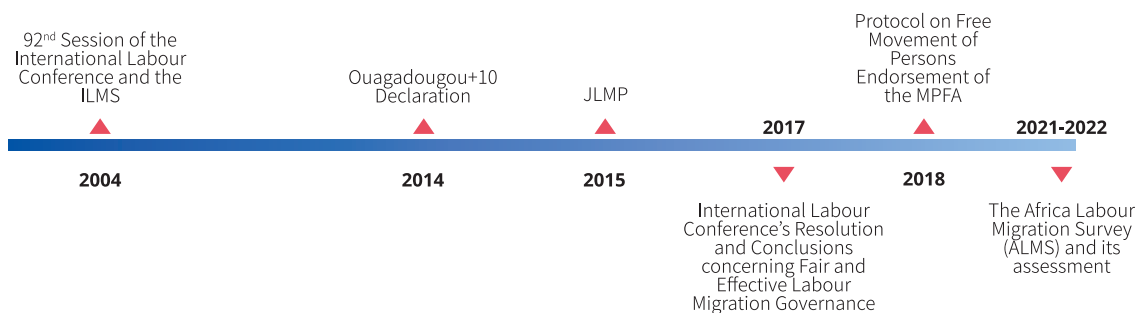
Under this programme, the African Union Commission (AUC) and the ILO, with technical support from IOM commissioned Samuel Hall to conduct an assessment of labour migration legal frameworks in Africa in selected Member States and the Regional Economic Communities.³

Outcome Two of the JLMP Priority aims to **improve policy and regulatory systems on labour migration in Member States and Regional Economic Communities (RECs), taking gender dimensions, international human rights and labour standards into account.** To implement the above, this assessment replicates the ILO 2004 Labour Migration Survey in Africa, with a view to assess (1) existing labour law provisions (including labour codes); (2) their relevance to labour migration governance; and (3) their gender responsiveness.

The overall objective of this assessment is to identify gaps between legislations, regulations (including labour codes) in AU Member States and RECs and practices affecting migrant workers' access to labour rights and benefits.

WHY NOW? Over 80 percent of the labour migration flows of African nationals are intraregional and occur within the African continent.⁴ Migratory flows are widespread, with Egypt, Morocco, Somalia, Sudan, and Algeria reporting the highest numbers of nationals living abroad. South Africa receives the most immigrants on the continent, with 4 million international migrants found within its borders.⁵ Labour flows are characterised by low-skilled workers responding to demands in agriculture, fishing, construction, and the service industry.⁶

► **Figure 1. Timeline of discussions on continental labour migration frameworks.**



² AU/ILO/UNECA (2015) *Labour migration governance for development and integration in Africa*.

³ Member States: Algeria, Cameroon, Côte d'Ivoire, Egypt, Ethiopia, Ghana, Kenya, Malawi, Morocco, Nigeria, Somalia, South Africa, Sudan and Uganda. RECs: Arab Maghreb Union (AMU), Common Market for East and Central Africa (COMESA), Community of Sahel-Saharan States (CEN-SAD), Economic Community of Central African States (ECCAS) and East African Community (EAC).

⁴ Flahaux, M. and de Haas, H. (2016) 'African migration: Trends, patterns, drivers.', *Comparative Migration Studies*, 4(1), pp. 1-25

⁵ United Nations (2017) *International Migration Report*.

⁶ AU (2020) *Report on Labour Migration Statistics Migration Statistics*. 2nd edn.

The latest continental assessment dates back to 2004, an update was needed to understand how regulations and frameworks in AU member states have adapted to contemporary labour migration. In 2004, at the 92nd Session of the International Labour Conference, labour migration was discussed, with the aim of addressing migrant workers' needs and vulnerabilities using an integrated approach and a broad range of measures.⁷ This led to the development of a comprehensive ILO report on labour migration trends, with provisions on labour migrant's treatment, the impact of migration countries of origin and destination, and migrants' experiences with regional, national, and international policies and structures regulating labour-related migration. As part of this effort, an International Labour Migration Survey (ILMS) was sent to the governments of all ILO member states, to update information on how migration and the treatment of migrant workers were regulated via laws, policies, and administrative measures. The ILMS sought to understand the role played by bilateral and multilateral agreements and tripartite partners in the development and implementation of ILO instruments.

It is important to mention the complementarities of the above with related work carried out under the JLMP, especially the Baseline Assessment to Identify Existing Needs and Priorities in the Area of Labour Migration Management, including on the State of Social Dialogue in the Economic Community of West African States (ECOWAS), the East African Community (EAC) and the Southern African Development Community (SADC) and Selected Member States, with the objective to ascertain and analyse the status of labour migration management and on the capacity of labour market institutions to carry out work on labour migration governance.

In 2014, AU Member States adopted the AUC Ouagadougou +10 Declaration and Plan of Action on Employment, Poverty Eradication, and Inclusive Development in Africa.

The main objective of this plan was to have a holistic approach towards regional economic integration, labour migration and social protection.⁸ **In January 2018, the African Union Heads of States and Government Summit adopted the Protocol on Free Movement of Persons⁹,** which included labour specific provisions indicating an intention to create an integrated labour market on the African continent.

Labour migration has been gradually rising on the international agenda and has also been recognised as representing a significant opportunity for development. A 2018 study by the ILO and the Organisation for Economic Co-operation and Development (OECD) found that a) labour migrants positively impact economic growth in developing countries; b) immigrants generate additional employment for national workers, which contributes positively to employment rates and monthly wages, and c) migrant workers employed in the formal economy contribute significantly to governments fiscal balance, as seen in the cases of Ghana and South Africa.¹⁰

The question remains on how to fully incorporate labour migration within national, regional, and continental economic and social policies, even more so development-related ones. International labour migration policies and frameworks are either non-existent or poorly implemented, which prevents the facilitation of labour mobility in a way that would fully harness its potential for migrants and their countries of destination.

At present, the ILO's Migration for Employment Convention C97¹¹ has been ratified by 14 African countries – Algeria, Burkina Faso, Cameroon, Comoros, Kenya, Madagascar, Malawi, Mauritius, Morocco, Nigeria, Sierra Leone, Somalia, Tanzania, and Zambia.¹²

ILO's Migrant Workers Convention C143¹³ has been ratified by 12 African states – Benin, Burkina Faso, Cameroon, Comoros, Guinea, Kenya, Madagascar, Mauritania, Sierra Leone, Somalia, Togo, and Uganda.

⁷ ILO (2004) '92nd Session of the International Labour Conference.'

⁸ AU (2015) *Report on the follow up on the Ouagadougou 2004 Summit: Employment, poverty eradication and inclusive development in Africa.*

⁹ AU (2018) 'Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment'.

¹⁰ OECD/ILO (2018) *How immigrants contribute to developing countries' economies*

¹¹ ILO (1949) *Migration for Employment Convention (Revised), 1949 (No. 97)*

¹² ILO (no date) *Ratifications of C097 - Migration for Employment Convention (Revised), 1949.*

¹³ ILO (no date) *Ratifications of C143 - Migrant Workers (Supplementary Provisions) Convention.*

Further work is required to improve and harmonise labour legislation within, as well as across, the national, regional, and continental levels. This is demonstrated by continued work on advocating for the ratification of the ILO Migrant Workers' Convention, as well as the 2017 recognition by the International Labour Conference's Resolution and Conclusions concerning Fair and Effective Labour Migration Governance highlighted, that there is an acute need for tailored and effective evidence-based policy responses that are able to address the unique challenges and contexts of various countries, regions and actors, especially as increasing numbers of countries are now places of origin, transit, and destination.¹⁴ The 2018 Global Compact on Migration has presented an opportunity to improve migration governance for all migrants regardless of their status,¹⁵ in line with Sustainable Development Goals (SDGs) target 10.7 on international cooperation for safe, orderly and regular migration.¹⁶

Objectives and approach

Based on the Terms of Reference, and as agreed on during inception discussions, the assessment's objectives are to:

- 1. Conduct a desk review of labour migration governance law and practice**
 - a. Assess migrant workers' equality of treatment and opportunities with national workers
 - b. Incorporate gender as a lens to understanding labour migration's potential and consequences.
- 2. Evaluate gaps and challenges**
 - a. Between the AU Free Movement of Persons Protocol, REC policy frameworks and legal instruments, International Labour Standards and national legislations, regulations, and practices among the AU Member States
 - b. In the implementation of migrant workers' equality of treatment and opportunities.
- 3. Produce recommendations to facilitate the harmonisation and coordination of legal instruments and policy frameworks** at the REC level for the protection of the rights of migrant workers.

The following diagram illustrates this assessment's holistic research approach, through the integration of several processes throughout the research cycle: state-of-the-art literature analysis and legal reviews paired with in-depth fieldwork to help identify gaps and issues, and present recommendations to address these.

► **Figure 2. Research approach**



¹⁴ ILO (2017) *International labour conference, 2017. Resolutions and conclusions concerning fair and effective labour migration governance.*

¹⁵ United Nations (2018) 'Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195)'

¹⁶ United Nations (2019) *SDG Indicator 10.7.2: Number of countries with migration policies to facilitate orderly, safe, regular, and responsible migration and mobility of people.*

Research questions

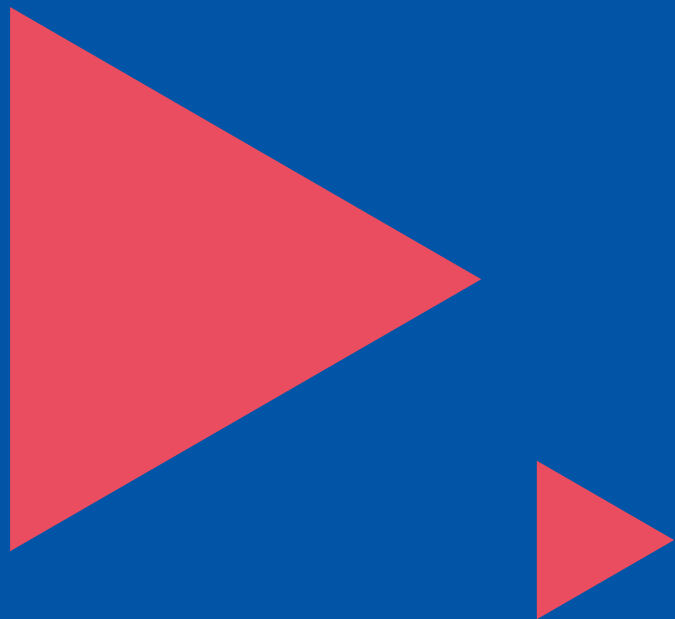
The assessment aims to answer one central question: What are the gaps in legislations, regulations, and practices affecting migrant workers' access to labour rights and benefits, and how can those be addressed to ameliorate the conditions migrant workers face? These were further broken down into 15 research questions under four key themes central to contemporary migration trends: Human Rights and International Labour Laws, Cooperation, Gender and Empowerment, and Climate-Related and Seasonal Migration. The articulation of these four themes, and the allocation of research questions among them is presented in Table 1.

► **Table 1. Research Sub-Questions by Theme**

Theme	Research Sub-Questions
Cooperation	1. What leverage or mechanisms exist for countries of origin to support or protect their citizens who are working as labour migrants in destination countries?
	2. What key non-governmental and civil society stakeholders are involved in implementing labour rights and benefits?
	3. How do regional dynamics affect patterns of labour migration?
	4. How are recruitment agencies regulated?
Human Rights & International Labour Laws	1. How have rights on paper been implemented in practice for labour migrants in destination countries?
	2. Do migrants have equal access to services in destination countries (including healthcare, education etc.)? How is this different on paper and in practice?
	3. What provisions and gaps exist for the protection of migrant youth?
	4. What are the pathways or existing mechanisms for migrant representation in destination countries (i.e., migrant worker unions, advocacy frameworks)?
	5. What are the practical challenges to accessing existing legal labour migration pathways for labour migrants?
Gender & Empowerment	1. What specific measures exist within legal and policy frameworks (migration related or otherwise) to support the gender specific needs of migrants?
	2. How do legal and policy frameworks provide for the principle of gender equality and prohibition of gender discrimination? How do they include special measures of assistance and support to specific groups of migrants?
	3. What kinds of mechanisms/programming exist to support vulnerable migrants?

▶ 2

▶ Methodology



To address the objectives set out above, the research team adopted **a mixed methods approach** that combined both quantitative and qualitative components. Such an approach helps mitigate potential bias or contradictions presented by the exclusive use of either quantitative or qualitative methods, while ensuring that study findings are grounded on what is transpiring on the ground. Three distinct components were utilised: **a Desk Review and Legal Review, the roll-out of the 2021 Africa Labour Migration Survey (ALMS), and Key Informant Interviews (KIIs) with experts and representatives of various stakeholders in the 14 AU Member States** selected for this study. These research components and tools, as well as the data collection and analysis methods are going to be explicated in the upcoming sections.

Data collection

Sampling

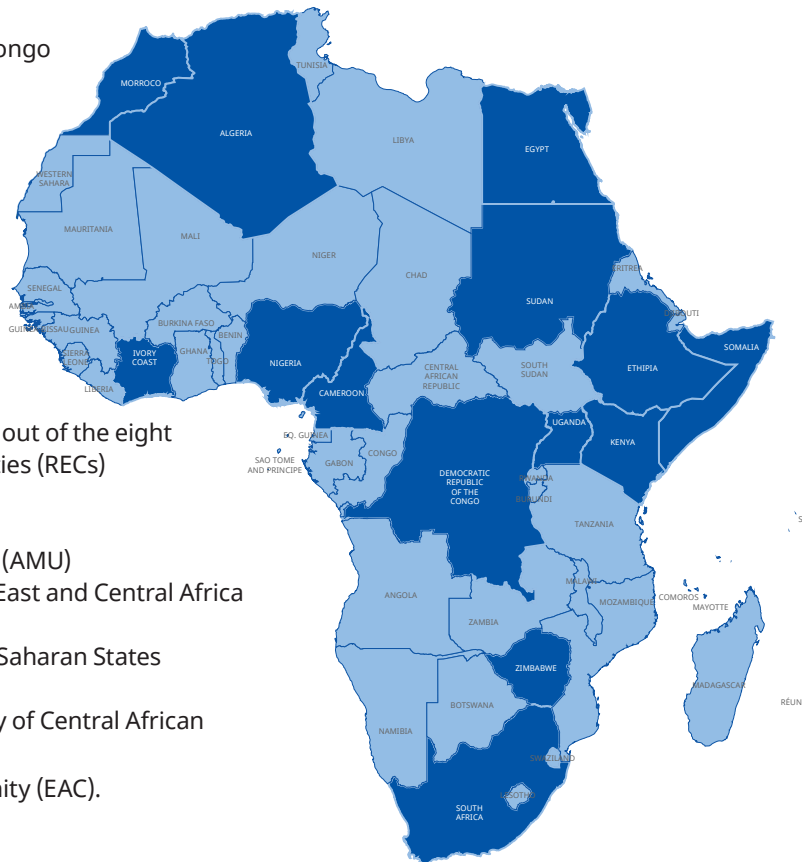
Altogether, **14 AU/ILO Member States were selected as the target countries for this research, based on a pre-selection and agreement with the AU and JLMP stakeholders.** The selected countries had previously also taken part in the 2003 ILMS Survey, and would be invited to renew this participation in the context of the ALMS 2021 by providing an updated assessment of their national legislations and regulations on labour migration.

These countries are:

1. Algeria
2. Cameroon
3. Côte d’Ivoire
4. Democratic Republic of Congo
5. Egypt
6. Ethiopia
7. Kenya
8. Morocco
9. Nigeria
10. Somalia
11. South Africa
12. Sudan
13. Uganda
14. Zimbabwe

In addition, the following five, out of the eight Regional Economic Communities (RECs) were consulted:

1. The Arab Maghreb Union (AMU)
2. The Common Market for East and Central Africa (COMESA)
3. The Community of Sahel-Saharan States (CEN-SAD)
4. The Economic Community of Central African States (ECCAS)
5. The East African Community (EAC).



Research components

Three of the data collection tools (the KIIs, Desk/Literature Review, and the Legal Framework Analysis) were qualitative – and one a quantitative, centred on the deployment of the ALMS 2021. These tools were carried out in parallel and informed each other.

► **Figure 3. Data collection components**



Component 1: Desk and literature review

The desk and literature review were initiated during the inception phase and continued throughout the duration of the study. As the thematic focus deepened, the research team reviewed and analysed relevant documentation, including but not restricted to:

- State-of-the-art academic literature on labour migration governance and related legal frameworks
- at the global, continental, regional, and national levels of the selected countries;
- Grey literature (published reports and data collected by international organisations);
- News articles, and any other pertinent material.

This systematic literature review¹⁷ identified, selected, and critically appraised research to answer clearly formulated questions. All references reviewed were organised in a matrix that was used to assess the relevance of each item, isolate key findings, and facilitate cross-reference throughout the duration of the study.

Component 2: The 2021 African Labour Migration Survey (ALMS)

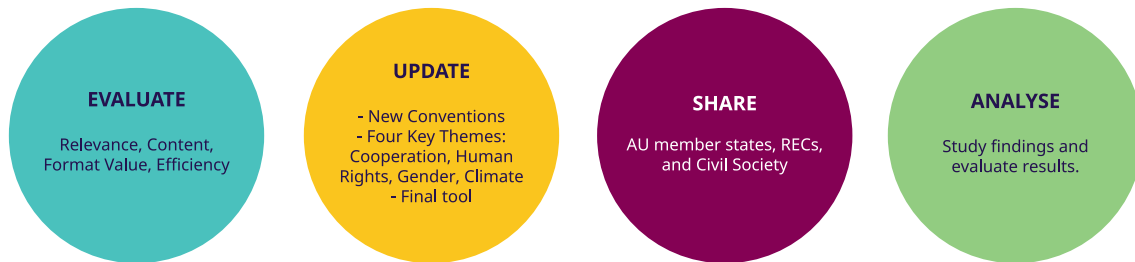
Almost two decades after the ILMS survey of 2003, this research set out to revise and update its tools and findings for the African continent, with two aims in mind: **(1) to assess existing labour law provisions in AU Member States and RECs, (2) to ensure their contemporary relevance to labour migration governance coordination measures; and (3) to assess their level of gender responsiveness.** This has resulted in the 2021 ALMS that will be detailed below. The **key objectives set for the ALMS 2021** are to:

1. Assess existing labour law provisions, including labour codes, in AU Member States and RECs
2. Ensure their relevance to labour migration governance for their coordination.
3. Assess their responsiveness to issues of cooperation, human rights, gender empowerment and climate-related migration.

¹⁷ Pittaway L. (2008) "Systematic Literature Reviews," in *The SAGE Dictionary of Qualitative Management Research*, ed. Richard Thorpe and Robin Holt, London: Sage, pp.216–17.

The adaptation of the ILMS 2003 followed a four-stage process, illustrated in the figure below, and explained thereafter.

► **Figure 4. Replication and updated methodology – From the ILMS 2003 to the ALMS 2021**



The **first stage** consists of the **evaluation of the ILMS 2003** through an examination of its:

- Overall contemporary relevance
- Inclusion of the current study's cross-cutting themes (cooperation, human rights, gender, and climate change)
- Formatting and phrasing of the survey questions
- Capacity to continue adding value to research, scholarship and policymaking
- Efficiency in addressing present-day knowledge gaps.

The **second stage** resulted in the **updated ALMS 2021** survey, following its supplementation with:

- **Additional questions** on recent Conventions, instruments, contemporary issues, and the study's cross-cutting themes
- **State-of-the-art methodological standards** from recent research and survey design, e.g. on question/answer formats.

Among the core adaptations to the ILMS 2003 implemented by the ALMS 2021 is the **integration the assessment's key themes (cooperation, gender, and human rights)**, which were largely absent from ILMS 2003.

During the **third stage**, the survey was distributed to **165 counterparts from 55 countries, between August 5 and September 30, 2021**. The selected respondents represented AU Member States, RECs, and civil society organisations (CSOs) with in-depth knowledge on the areas of interest. Complete responses were received by 52 respondents, 24 from government, 21 from workers' organisations and seven from employers' organisations, a significant increase from the response rate received in 2003.

The final and **fourth stage** comprised the analysis, evaluation, and graphic representation of collected information, which has informed this study. The ALMS tool is included in its entirety in this report's Annex, together with the full compendium of tables and graphs that resulted from its analysis.

Component 3: Key Informant Interviews (KIIs)

A total of 120 KIIs were conducted with representatives of UN agencies, regional (REC) authorities and relevant government ministries, key government officials, and thematic experts in the fourteen selected countries, between August 19 and October 27, 2021.

This part of the data collection process built upon the responses received in the ALMS, as well as on findings and gaps identified by the desk, literature and legal review and sought to elicit expert insights on a variety of topics through intensive interviews with the selected respondents¹⁸.

KII respondents were selected among an extended list of active contacts maintained by the research team and were invited to participate in an individual interview in accordance with the physical distancing restrictions imposed by the COVID-19 pandemic.

These KIIs complement the regional and national perspectives, which emerge from the ALMS and labour assessment, and provide insights into cross-border dimensions of labour migration, and a country's/organisation's investment and interest in labour migration policy. KII questions were structured around the four identified key themes of cooperation, human rights and labour standards, gender empowerment and climate-related seasonal migration.

Component 4: Labour legislation analysis across fourteen countries

The labour legislation assessment was carried out through an in-depth legal analysis of relevant policies and documents by legal experts and was based on the ALMS responses from the selected Member States and RECs, as well as built on the desk and literature review that was initiated during the inception phase and had been ongoing throughout the duration of this research.

The legal assessment aimed to analyse whether:

- The ratification of regional protocols, such as RECs free movement protocols, AU Free Movement Protocol, and AU Migration Policy Framework, impacted legal and policy frameworks in Member States.
- The extent to which some RECs are more advanced than others in their implementation of sub-regional protocols
- The extent to which certain member states comply with International Labour Standards

on labour migration despite not having ratified them.

- The promotion of ratification has led to legal reforms among the participating Member States.
- Countries who have recently ratified Conventions relating to labour migration have made progress in domesticating them,
- The drafting of labour migration policies has led to legal reforms in practice.

Limitations and constraints

The study encountered certain limitations and constraints, the foremost among which pertained to the ongoing COVID 19 pandemic. The global health emergency imposed significant restrictions on social research in general, particularly regarding personal contact and face-to-face interaction, which are prerequisites for studies with qualitative components. To mitigate COVID-19 related challenges, pandemic-adapted methods were implemented, especially during the KIIs phase by substituting in-person interviews with flexible set-ups of videoconferencing, emails, and phone calls. **Adaptability, quality assurance and safety for everyone involved remained key considerations** for the research team within the context of the evolving pandemic.

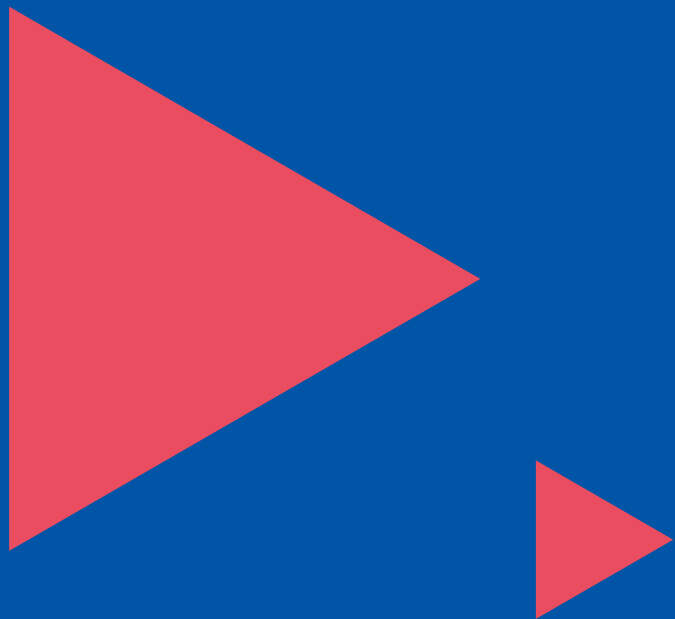
In addition, the ALMS deadline was extended by two weeks due to low response rate. The team sent personalised emails and reminders, which led to an increase of response rates. Delays were also experienced during the fieldwork phase, mainly due to potential responders' inactive email accounts. Some responses were received after the fieldwork phase was completed, and, whenever possible, the key informants were accommodated. Delays also occurred due to clearance and authorisation requirements necessitated for the participation of certain key informants. In some countries, most of the key informants contacted refused to participate without official clearance. Time limitations and various bureaucratic processes, particularly among government authorities, also resulted in interview delays.

These **constraints were mitigated** to a large extent. Examples of that include sending notes verbales to Member States' representatives, and every effort was made to accommodate the schedules of participants.

¹⁸ Tremblay, M.-A. (1957) 'The key informant technique: A nonethnographic application', *American Anthropologist*, 59, pp. 688-701.

▶ 3

- ▶ **Analysis of Legal and Policy Frameworks in Africa**
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Labour migration standards emanate from multiple levels of governance: international, continental, regional and national. Each level is important to synthesise a clear picture on existing frameworks governing labour migration within and among African states. Each of these levels' implications for labour migration in Africa will be analysed and presented in the following order:

1. A review of **international standards** emerging from the frameworks put forth by the ILO, and the United Nations (UN), followed by the legal and policy standards instituted by the AU
2. An analysis of **how RECs have incorporated labour mobility** in their treaties
3. An in-depth look into **how national governments legally incorporate their labour migration**
4. **Commitments and obligations**, with a close observation of the national laws and policies of 14 selected countries. The relevant bi-lateral agreements endorsed by African states are also examined and the content and interaction of the legal and policy frameworks among interlocking levels of governance is analysed.

Based on the above, the legal framework analysis will conclude with an identification of gaps, and suggestions regarding the key mechanisms, stakeholders, considerations, and regulatory processes involved in the management of labour mobility in Africa.

A. A legal analysis of existing frameworks

A1. International frameworks

A1.1 ILO standards

Beyond its eight fundamental conventions, the ILO has set a series of four labour standards relating to labour migration, whose legal binding, as with all international treaties, is dependent on individual-state ratification. The ILO's standards on labour migration include the **Migration for Em-**

ployment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which are legally binding upon States that have ratified them, as well as the Migration for Employment Recommendation (Revised) 1949, (No. 086), and the Migrant Worker's Recommendation, 1975 (No.151), which are merely recommendations for all ILO Member States and are therefore not legally binding.

Indicatively, among a host of others, some of the core provisions gradually incorporated in the Conventions' corpus pertained to the **States' obligation towards lawfully residing migrant workers** to: i) provide them equal treatment and non-discrimination as to their national counterparts in all matters related to their employment and loss thereof, social services, health and occupational safety, family reunification, and financial transactions and legal proceedings¹⁹; ii) ensure their non-penalisation when seeking to lawfully exercise their rights; iii) facilitate their departure, journey and reception, as well as provide relevant pre-arrival induction training and accessible and understandable information on their rights. In contrast, conditional limitations are set based on States' discretionary power to protect their interests regarding certain issues, such as the free choice of employment, while exclusionary provisions are inserted for certain categories of workers.

Although the vast majority of stipulations refer to lawfully residing and employed migrants, States are not absolved from their responsibility to address and eliminate abusive working conditions for all migrant workers, including those in a status of irregularity, while being urged **to recognise migrant workers' inalienable rights to equality of treatment and legal recourse, irrespective of their status.**

These two Conventions and two Recommendations have set the ground for labour migration's regulation globally and have built upon each other over decades to refine the terms, scope and definition of labour migration and enhance the protection framework for migrant workers and their families given the realities of their time. Despite being several decades old, their contained provisions remain relevant today. Yet it is necessary

for them to be opened for a careful re-evaluation of their responsiveness and reflexivity within the rapidly changing contemporary world conditions.

Supplementing the ones previously mentioned, additional ILO Conventions applying equally to migrant workers include: the Equality of Treatment (Accident Compensation) Convention (No. 19); the **Convention Concerning Forced or Compulsory Labour (No. 29)**; the **Convention Concerning Abolition of Forced Labour (No. 105)**; the **Equal Remuneration Convention (No. 100)**; the **Discrimination (Employment and Occupation) Convention (No. 111)**; the Equality of Treatment (Social Security) Convention (No. 118); the Maintenance of Social Security Rights Convention (No. 157); the Private Employment Agencies Convention, 1997 (No. 181); and the **Domestic Workers Convention (ILO Convention No. 189)**. Despite the extent, volume, and enduring temporal scope of available legal instruments for the regulation of migrant labour, however, their applicability is beset by their remarkably low ratification rates worldwide.

Focusing on Africa, despite all 54 African States' ILO membership, very few among them have ratified the above labour migration Conventions: only thirteen have ratified Convention no.97²⁰, and eleven have ratified Convention No.143²¹, while the degree of adherence to their provisions, even among the countries that have ratified them remains unknown. This contradicts the importance and relevance that the topics addressed by the ILO Conventions and Recommendations hold for African States²², as some of the standards, particularly the Model Agreement annexed to Recommendation No.86, insofar as they provide for refugees and displaced persons are highly pertinent to States hosting large numbers of them.

The UN framework contains a host of instruments that impact labour migration. Most of these instruments, even if not specifically targeting migrant workers, impose obligations on Member States, which they should fulfil in a non-discriminatory manner towards all persons in their territorial jurisdiction.

Many of these instruments, save for the migrant worker-specific instrument, have a wider reach as the status of their ratification is in most cases far higher than that of ILO instruments.

The foremost United Nations' documents impinging on labour migration are the International Bill of Rights, which comprises of three discrete instruments: i) the **Universal Declaration of Human Rights (UDHR), 1948**²³; ii) the **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**, and iii) the **International Covenant on Civil and Political Rights (ICCPR), 1966**. These documents are the primary source of human rights standards globally and, as such, their recognition as foundational sources of rights and law by States grants them greater legal salience. In the same spirit as the ILO Conventions, and complementing their content, these instruments guarantee a series of rights starting from fundamental ones, such as the right to life, freedom from torture, freedom of movement and to choose one's residence, freedom of expression, association, and protection from arbitrary expulsion, narrowing down to work-related rights such as just and favourable conditions of work; protection from unemployment; equal pay for equal work; just and favourable remuneration to all men and women; forming and joining trade unions, among many others. Most encompassed provisions apply without discrimination on any grounds. Restrictions on grounds of national security, public order or health and other state-mandated grounds apply on these rights. Ratification rate is significantly higher for these instruments, with 173 States being signatories to ICCPR, including all African states except South Sudan, and 171 States ratifying ICESCR, including all African states but Botswana, Mozambique and South Sudan.

¹⁹ ILO Convention No 97, article 6 (1)

²⁰ Ratifications of C097-Migration for Employment Convention (Revised) 1949 (No.97) at https://www.ilo.org/dyn/normlex/en/?p=NORMLEX_PUB:11300:0::no11300:P11300_INSTRUMENT_ID:312242:NO.

²¹ Ratifications of C143-Migrant Workers(Supplementary Provisions) Convention,1975 (No.143) at https://www.ilo.org/dyn/normlex/en/?p=NORMLEX_PUB:11300:0::no11300:P11300_INSTRUMENT_ID:312288:NO.

²² The eight fundamental ILO Conventions cover the themes of freedom of association, collective bargaining, forced labour, minimum age, worst forms of child labour, equal remuneration, and discrimination. See <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang-en/index.htm>.

²³ The UDHR, although non-binding, "remains the primary source of global human rights standards, and its recognition as a source of rights and law by states throughout the world distinguishes it from conventional obligations": Hannum H.(1996) 'The Status of the Universal Declaration of Human Rights in National and International Law' 25 *Georgia Journal of International and Comparative Law*, 287..

Among the numerous other thematic international human rights instruments by the UN that impact on migrant workers outside the Bill of Rights, two of the most pertinent ones include:

a) **the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979** reaffirms and prescribes the overall equality of women with men, including provisions on employment, and elaborates on a series of fundamental rights while conferring a gendered perspective to them. It has 182 ratifications worldwide including all but two African countries.

b) **the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990** ensures (regular) migrant workers and their families enjoy the same protections in conditions of equality and non-discrimination during the entire migration process, the implementation of which is monitored by a Committee of experts that review State reports, whose work is, however, hindered by the limited participation of countries in this process²⁴.

Provisions for the emergency protection of those in irregular situations are also included, without this term's interpretation pointing towards the regularisation of non-documented persons, which remains at the discretion of the nation state. The ICMW is perhaps the most comprehensive instrument on migrant workers' rights, incorporating and consolidating rights articulated in other instruments, including the UDHR, ICCPR, ICESCR²⁵, and CEDAW²⁶, as well as the ILO Convention standards, including Conventions No. 97, and No. 143, and Recommendations No. 86 and 151 discussed above, which impose obligations on both States of origin and destination. As such, it is unsurprising that its ratification rate is especially low among the 'developed countries' commonly viewed as 'destination countries', with 56 States parties worldwide, of which 24 are African States, which greatly diminishes the Convention's impact²⁷.

Yet, as it will be detailed further on, the stark divide between 'sending' or 'destination' countries may not hold among African States that are party to regional free movement of labour agreements, and as such their obligations towards migrant workers are in no way diminished.

A1.3 Global Compact for Safe, Orderly and Regular Migration (GCM), 2018

This is the latest international document with global acclaim that pronounces itself on migration. As a non-legally binding, cooperative framework, it fosters international cooperation among all relevant actors on migration, acknowledging the interdependency and sovereignty of States in the face of migration, and the obligations accruing under international law²⁸.

It does not re-state rights articulated elsewhere but emphasises the need to improve international cooperation on issues of migration through enhanced bilateral, regional, and multilateral cooperation between relevant stakeholders. Based on several guiding principles upholding people-centredness, international cooperation, national sovereignty, rule of law, due process, sustainable development, human rights, gender responsiveness, child-sensitivity, whole-of-government and whole-of-society approach, it sets out 23 objectives for safe, orderly and regular migration, which emphasise the importance of accurate disaggregated data on migration, information-sharing among States, documentation of migrants, ensuring safe and flexible regular migration pathways, combatting and eradicating human trafficking and people-smuggling, reducing vulnerabilities in migration – including using detention as last resort, and upholding migrants' rights. Being a relatively new instrument, it remains to be seen what impact the GCM will have on labour migration globally, and in Africa in particular.

²⁴ Edelenbos C. (2009) 'Committee on Migrant Workers and Implementation of the ICRMW' in R Cholewinski et al (eds), *Migration and Human Rights: The United Nations Convention on Migrant Workers' Rights* Cambridge: Cambridge University Press.

²⁵ Status of ICCPR and ICESCR ratifications is available at <https://indicators.ohchr.org/>.

²⁶ Introduction to CEDAW, <https://www.ohchr.org/EN/Professional/CEDAW.aspx>.

²⁷ Pécoud, A. (2009) 'The UN Convention on Migrant Workers' Rights and International Migration Management', *Global Society* 23(3), Global Society, 333-350.

²⁸ UN, The Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195) para 7. The GCM was adopted by 163 out of 193 UN Member States.

A2. Continental frameworks

A2.1. African Union legal and policy framework

Bringing together 55 African Member States, the African Union sets standards on various matters with special significance for the continent²⁹. Among those, labour migration has recently been rising in prominence³⁰, despite the stalling of prior efforts to establish an African Economic Community. In line with the stipulations of other international Conventions, a series of legal instruments and policy frameworks underpin the African Union's will to promote regional economic integration, and human resource development across the continent through their progressive synthesis of a framework that promotes free movement regimes (of persons, goods, services and capital, and the right of residence and establishment) under conditions of gender equality, rights' portability and non-discrimination on any grounds, all factors with a cumulative bearing on labour migration across the continent. These include:

a) the **Treaty establishing the African Economic Community (AEC Treaty), 1991**, ratified by 50 AU Member States, which constitutes the key legal instrument on Africa's economic development strategy, and sets out several objectives, which shall partly be achieved through the gradual removal of obstacles to free movement among Member States, and the adoption of employment policies to that effect, understood as preconditions for the promotion of overall human resource development.

b) the **Protocol to the Treaty establishing the African Economic Community Relating to Free Movement of Persons, Rights of Residence and Right of Establishment (AU-FMPP)**. This is the first regional instrument providing for free movement of persons on the continent, and by extension, labour migration, and incorporates a limited number of substantive rights provisions the application of which is left to States' discretion.

It is based on the principles of non-discrimination, transparency and respect for national laws and policies on national security, public order, public health, and the environment, and espouses free movement, while at the same time upholding the principle of state sovereignty. It is yet to enter into force subject to missing enough ratifying parties, and even when it comes into force, it will only apply in Member States and not on the entire continent and will require a level of harmonisation within AU instruments, at the REC level and the national level.³¹

c) the **African Charter on Human and Peoples Rights (ACHPR), 1981**, which is ratified by 54 AU Member States, and grants extensive individual rights to persons within a State's territory, including the right to free movement and residence in compliance with States' laws, espouses a cross-section of rights guaranteed in the UDHR, the ICCPR and the ICESCR, and introduces the notion of peoples' rights – unique to the African concept of rights, such as the equality of all peoples, right to existence, right to dispose their wealth and natural resources, the right to economic, social and cultural development, etc.

d) the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (ACHPR/RW) 2003**, which re-asserts women's right to dignity, and lays out protection standards for the treatment of women in various spheres of life, including access to justice and equal protection before the law. Of specific relevance to women in employment, the Protocol provides for economic and social welfare rights for women, obliges States to undertake legislative and other measures that promote equality, transparency, and special protections on a series of employment-related issues with a particular focus on women. It is ratified by 42 AU Member States, but due to its legal set-up and lack of specialised monitoring mechanism³² its impact and efficacy may not be easily assessed.

e) The **Youth and Women Employment Pact for Africa (2013)** followed and called on the AU and RECs to collaborate and develop a continental-wide Labour Migration Plan and a Jobs Matching and Mobility Platform.³³

²⁹ AU (2000) Constitutive Act of the African Union.

³⁰ Nalule C. (2021) 'Migration and Human Rights in Africa: The Legal and Policy Framework in Broad Strokes' in Abegunrin O. and Abidde S. O. (eds), *African Migrants and the Refugee Crisis*, Cham: Springer, 95-111.

³¹ Magliveras K. D. and Naldi G J (2021) 'Migration and Human Rights in Africa' in Abegunrin O. and Abidde S. O. (eds), *African Migrants and the Refugee Crisis*, Cham: Springer, 55-71.

³² On the weaknesses of the African Commission in effectively executing its mandate, see Mbondenyei K. (2011) *International Human Rights and their Enforcement in Africa*, Nairobi: Law Africa; Johnson A. (2021) 'Barriers to Fulfilling Reporting Obligations in Africa under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa', *African Human Rights Law Journal*, 21(1), 176-203.

³³ AU (2013) 'Youth and Women Employment Pact for Africa'.

In 2018, the AU adopted both the new version of the MFPA (2018-2030) and the AU Free Movement Protocol. Both documents had labour migration as a central focus.

f) the **Migration Policy Framework for Africa and Plan of Action (MPFA), 2018-2030**, which although perhaps the most comprehensive document focusing singularly on migration aspirations in Africa and providing policy recommendations on various facets of migration in the continent, including labour migration, it is a policy document that is neither binding nor enforceable. The AU MFPA (2018) contained detailed guidelines and strategies on labour migration, including support for the ratification of ILO Conventions related to labour migration, increased protection for vulnerable migrant workers, and women in particular, improvements to the capacity building of national labour institutions, and promoted greater regional harmonisation of legislation, policies, and data sharing³⁴.

The MPFA also lays out some of the benefits of States' adoption of 'regular, transparent, comprehensive and gender-responsive labour migration policies, legislation, and structures at national and regional levels'³⁵ and traces and links Africa's labour migration objectives to international and regional development goals.

g) the **AU-ILO-IOM-UNECA Joint Labour Migration Programme (JLMP)**, which promotes critical areas of facilitating the free movement of workers as a means of advancing regional integration and development. Key activity areas of the JLMP include skills portability, and the mutual recognition of qualifications, the development of an African Qualifications Framework, social security access and portability for migrant workers, the collection of labour migration statistics, the protection of the rights of migrant workers, as well as the ratification and effective implementation of UN and ILO labour standards on migrant workers and their family members. The JLMP is a long-term joint undertaking among the four organisations in coordination with other relevant partners operating in Africa, as well as development cooperation actors, private sector organisations and civil society representatives.

It is the instrument dedicated to the implementation of the 5th Key Priority Area of the Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development, which was adopted by the AU Assembly of Heads of States and Governments in January 2015, Addis Ababa, Ethiopia. Its strategy focuses on intra-African labour migration and supports achievements of the First 2023 Ten Year Plan of the AU Agenda 2063, and of the Sustainable Development Goals (SDGs) adopted by the UN. In addition, the JLMP is a critical instrument in implementing the **Migration Policy Framework for Africa (MPFA) and Plan of Action (2018-2030)**.

h) the **Single African Air Transport Market (SAATM)**, an initiative of the African Union to create a single unified air transport market in Africa to advance the liberalization of civil aviation in Africa and act as an impetus to the continent's economic integration agenda.

i) the **AU Strategy for Integrated Border Governance (AUBGS)**, an instrument developed to use borders as vectors to promote peace, security and stability, and to improve and accelerate integration through effective governance of borders while facilitating easy movement of people, goods, services and capital among AU Member States.

A3. Regional level frameworks

African institutions and Regional Economic Communities (RECs) have made legal and policy strides to better leverage and manage labour migration across the continent. The AU adopted the first Migration Policy Framework for Africa (MPFA) in 2006 (updated in 2018), which included strategies to improve legal labour migration management through measures such as the:

- Development of labour migration policies;
- Strengthening of gender-specific approaches to policies and activities for labour migration;
- Promotion of the rights of migrant workers.³⁶

³⁴ AU (2018) Migration Policy Framework for Africa and Plan of Action (2018-2030).

³⁵ Ibid.

³⁶ AU (2006) *The Migration Policy Framework for Africa*.

Drawing on the continental legal instruments and policy frameworks, AU RECs have been at the forefront of developing regulations for the promotion and management of labour migration. The AU Free Movement Protocol, supplementing the MFPA, also contains several provisions related to the promotion of free labour on the continent such as: the right of workers and their dependents to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State; the mutual recognition of technical and professional qualifications through bilateral, multilateral or regional arrangements; and the portability of their social security benefits.³⁷

Regional frameworks aim towards their Members States' enhanced economic and trade integration, with most of them recognising the free movement of persons, goods, and services, including labour, as some among the several means to achieve the broader REC objectives.

Varying degrees of progress among the RECs are noted by relevant stakeholders, such as the United Nations Economic Commission for Africa (UNECA), and the African Development Bank, on the attainment of free movement of persons and, by extension, free labour migration.

The AU recognises eight RECs, whose labour migration frameworks are being summarised below, of which the first five (AMU, CEN-SAD, COMESA, EAC, and ECCAS) have been selected to be discussed in depth for the purposes of this research³⁸. These RECs cooperate on key issues of common interest, including migration, labour, trade, peace and security, and health among others. The MPFA requires Member States and RECs to have transparent, comprehensive and gender-responsive national labour migration structures and legislation³⁹. Several frameworks are set in place among the RECs geared towards regulating labour migration.

A3.1 Arab Maghreb Union (AMU)

Established in 1989 among Algeria, Libya, Mauritania, Morocco and Tunisia, AMU aspires to reinforce existing relationships between its Member States and identify appropriate ways and means to gradually accomplishing a more comprehensive integration among them⁴⁰, based on the progressive advancement of free movement of persons and the transfer of services, goods, and capital among them. Not much progress has been noted, however, in attaining this objective within AMU states, which has repercussions for labour migration within the region. Low political support, interstate disputes, internal crises, as well as insecurity and difficult transport connections have been pointed out by prior research as major challenges that AMU faces.⁴¹

A3.2 Community of Sahel-Saharan States (CEN-SAD)

Established in 1998 and updated in 2013, CEN-SAD initially comprised Burkina Faso, Chad, Mali, Niger, Libya, and Sudan, and later expanded to include 23 additional Members. Although the promotion of the free movement of persons, goods and services is stated among its several objectives⁴², not much progress has been noted in its realisation.

Any progress in this direction is attributed, instead, to some of the CEN-SAD Members' participation in and adherence to the ECOWAS regulations.⁴³

A3.3 The Common Market for Eastern and Southern Africa (COMESA)

Established in 1994 in replacement of the Preferential Trade Area (PTA), COMESA comprises 21 Member States and aims 'to contribute towards the establishment, progress and the realisation of the objectives of the African Economic Community'⁴⁴.

³⁷ AU (2018) 'Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment'.

³⁸ AU (no date) *Regional Economic Communities (RECs)*.

³⁹ AU/IOM (2020) *Africa Migration Report: Challenging the Narrative*.

⁴⁰ AMU (1989) Treaty Instituting the Arab Maghreb Union.

⁴¹ Schöffberger I. (2020) 'Free movement policies and border controls: Regional migration governance systems in West and North Africa and Europe, and their interactions' in IOM, *Migration in West and North Africa and across the Mediterranean: Trends, risks, development and governance*.

⁴² CEN-SAD (2013) Community of Sahel-Saharan States Revised Treaty, article 3.

⁴³ UNECA/AU/ADB/UNCTAD (2019) Next steps for the African continental free trade area. *Assessing Regional Integration in Africa*. ARIA IX.

⁴⁴ COMESA (1993) 'Treaty Establishing the Common Market for Eastern and Southern Africa'.

The Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Right of Residence, adopted in 2001 established mechanisms for the free movement of citizens, the freedom of equal employment, pursuing self-employment and managing companies in any member state, the relaxation of visa requirements, and the abolition of any discrimination based on nationality, among other provisions. Limitations on grounds of public policy, public security or public health were also included. Pending the said Protocol's conclusion, Members remain bound by the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements that was reached under the auspices of the erstwhile PTA. Without the Protocol on Free Movement (FMPP), COMESA lacks an effective legal framework on labour migration. According to UNECA, COMESA is among the RECs that have made little progress on the free movement of persons.⁴⁵

A3.4 East African Community (EAC)

Established in 2000, its key objectives are the establishment of an export-oriented economy for the Partner States, wherein free movement of goods, persons, labour, and services will be pivotal to the function of the Common Market.

Steps towards this goal include mutual easing of border crossings for their citizens, maintaining common employment policies, harmonising labour laws and programmes, including those on occupational health and safety, and enhancing the activities of the employers' and worker's organisations⁴⁶.

Regarding labour migration, non-discrimination based on nationality, and equal treatment vis-à-vis other parties was adopted in the 2010 Protocol on Establishment of the EAC Common Market (EAC CMP). Moreover, workers can apply for, and accept, any offer of employment, conclude contracts, and take up employment in any Member State and should, thereby, be able to move freely and stay within the territory of the Member States. Additionally, workers should enjoy the freedom of association and collective bargaining, as well as

the rights and benefits of social security. The CMP obliges states to harmonise their labour policies, national laws, and programmes to facilitate the free movement of labour within the Community, as well as their national social security policies, laws, and systems to provide for social security for self-employed persons who are citizens. Conditions, limitations, and exceptions are stipulated subject to national requirements. UNECA ranks the EAC second to ECOWAS on the free movement of persons, but it also notes that free movement of labour remains contentious⁴⁷, as, for instance, work permit fees for all EAC nationals have been waived only by Kenya and Rwanda, while the protection and guarantees for workers' rights is left to the discretion of each Member State. Moreover, the JLMP supported EAC in developing its Draft Regional Labour Migration Policy (2021)⁴⁸. The Draft has been approved by the Forum of Ministers on the 29th of October 2021, and is awaiting adoption by the Council. Other recent developments include the initiative by East African ministers to sign a regional cooperation agreement on January 24, 2020, aiming at harmonising regional labour migration policies, and establishing a common platform for engagement with Gulf countries and other employers of African migrants.⁴⁹

A3.5 Economic Community of Central African States (ECCAS)

Comprising eleven Member States, ECCAS was established in 1983 by treaty (revised in 2019). Member States undertake to progressively facilitate the free movement of persons, including workers, and the right of establishment in accordance with the Protocol on Freedom of Movement and Right of Establishment⁵⁰. The ECCAS Free Movement of Persons Protocol (ECCAS FMPP), annexed to the original Treaty as annex VII, provides for the free movement of workers and the establishment of self-employed persons. However, in practice there seems to be little progress on the free movement of persons among ECCAS countries, with only four Members, that incidentally also belong to the Central African Economic and Monetary Community (CEMAC), granting visa-free entry to citizens of other Member States.

⁴⁵ UNECA/AU/ADB/UNCTAD (2019) Next steps for the African continental free trade area. Assessing Regional Integration in Africa. ARIA IX, p.17.

⁴⁶ EAC (2000) 'The Treaty for the Establishment of the East African Community'.

⁴⁷ UNECA/AU/ADB/UNCTAD (2019) Next steps for the African continental free trade area. Assessing Regional Integration in Africa. ARIA IX, p.17.

⁴⁸ EAC (2021) *The Draft Regional Labour Migration Policy Framework, 2021*.

⁴⁹ Ssebhwami, J. (2020) *How new cooperation agreements among East African states help to address overseas worker exploitation*, PMLDaily

⁵⁰ ECCAS (1983) 'Treaty Establishing the Economic Community of Central African States'.

A3.6 Economic Community of West African States (ECOWAS)⁵¹

Within the ECOWAS region, the promotion of employment, improvement of labour market and skills' mobility fall within the framework of the implementation of the Protocol on Free Movement of Persons (and its four protocols) in its three stages – entry, residence, and establishment. The right of residence grants ECOWAS citizens “the right of residence in its territory to take up and pursue an employed activity” (Article 2). Following their right of residence, citizens of ECOWAS countries also have the right to apply for- and exercise in accordance with the legislative and administrative provisions governing national workers. These priorities also are reaffirmed in the ECOWAS Labor and Employment Policy (2009) and in its Youth Employment Action Plan (2012).

ECOWAS is committed to the implementation of labour market information systems, the harmonization of labour laws, the recognition and harmonization of different qualifications, and the guarantee of the portability of migrant workers' rights through the implementation of the ECOWAS General Convention on Social Security (2013)⁵². In 2011, the ECOWAS Tripartite Social Dialogue Forum (SDF) was established to support the implementation of the Labour and Employment Policy and its Strategic Action Plan. During the General Assembly held in Bamako, Mali, in 2015, the SDF, decided to move forward in the institutionalization process and recommend the establishment of a regional secretariat and two thematic working groups, including the Labour Migration working Group.

Moreover, in 2019, ECOWAS ministers adopted the Directive on Minimum Standards for Harmonizing Labour Legislation in ECOWAS Member States (2019).⁵³

A3.7. Southern African Development Community (SADC)

The SADC Labour Migration Policy is drafted within the spirit of the overall SADC Treaty whose main objectives include inter alia, “to achieve development, peace and security, and economic growth, to alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through regional integration, built on democratic principles and equitable and sustainable development”. SADC's policy has, therefore been developed to reflect, contribute to, and refine existing legal frameworks at regional, bilateral, and national level, and international and regional legal instruments and obligations relating to migration and labour⁵⁴. SADC has adopted the Labour Migration Action Plan (2016-2019)⁵⁵, more recently, the Labour Migration Action Plan (2020-2025) and the Guidelines on Portability of Social Security Benefits (2020)⁵⁶. The Action Plans, adopted through the Employment and Labour Sector in the Region, is in line with Article 19 of the SADC Protocol on Employment and Labour, which seeks to protect and safeguard the rights and welfare of migrant workers, to give them better opportunities to contribute to countries of origin and destination⁵⁷. Other developments have included SADC members' endorsement of the decision to prioritise safe and fair recruitment across the SADC region through fostering partnerships with governments, recruitment agencies and private actors⁵⁸. SADC is also currently developing a Regional Migration Policy Framework (2022-2030)⁵⁹, which will outline key strategies and actions for regional response, as well as the roles and responsibilities of various actors in the migration chain, in areas such as, immigration, labour, health, education, social welfare, environment and emergencies. It is worth noting that SADC has a Protocol on the Facilitation of the Free Movement of Persons but it is yet to come into force, pending requisite minimal ratifications.

⁵¹ Based on information from GFMD. (2018) “Harmonisation of labour practices within the ECOWAS subregion”.

⁵² *Supplementary Act A/SA.5/07/13 Relating to the General Convention on Social Security of Member States of ECOWAS* (2013).

⁵³ *ECOWAS Minister adopt Recommendations on Decent Work and Harmonisation of Labour Laws for the Region* (2019).

⁵⁴ SADC (2013) SADC Labour Migration Policy.

⁵⁵ IOM (2016) ‘Labour Migration Action Plan (2016-2019)’.

⁵⁶ Southern African Development Community (2020) ‘SADC employers and labour sector adopt guidelines on portability of social security benefits’.

⁵⁷ SADC. (2021) ‘SADC adopts new Labour Migration Action Plan to promote skills transfer and match labour supply and demand for regional integration.’

⁵⁸ Mpedi, L. G. and Nyenti, M. A. T. (2017) *Towards an instrument for the portability of social security benefits in the Southern African development community*. Stellenbosch: Sun Press.

⁵⁹ ‘Statement by Her Excellency Dr. Stergomona Tax, the Executive Secretary of SADC’ (2020) *Online Launch Event of the IOM Continental Strategy on Migration in Africa 2020-2024*.

A3.8. Intergovernmental Authority on Development (IGAD)

IGAD fosters regional co-operation for its Member States to uphold the tenets of the REC regarding the regional co-operation and harmonization of labour migration policies, yet Member States have varying labour migration laws given their diverse backgrounds⁶⁰. IGAD has been working for several years on migration management and related programs, with a focus on strengthening national coordination mechanisms and regional consultative processes to support Member States' policy commitments in an integrated manner⁶¹. In December 2021 IGAD launched projects in the Ali Sabieh region in Djibouti. Moreover, around 40 IGAD Member States' labour migration experts have been appointed as members of the IGAD Labour Migration and Mobility Governance Core Experts' Reference Group, launched in November 2019 in collaboration with ITC-ILO, which aims to benefit hundreds of thousands of potential and actual migrant workers in IGAD⁶². Similarly to SADC, IGAD has also developed a draft protocol on the free movement of persons that is yet to be adopted.

A4. National level frameworks

The data from the ALMS 2021 highlights key results and achievements on national policies and legal frameworks across the continent, revealing an increase in the development of National Labour Migration Policies since the 2003 ILMS. For those countries who do not have such policies, they possess domestic legislation that governs to some extent their immigration and emigration laws. Improvements since 2003 are noted specifically on policy development, as well as on the range of legal bodies and institutions involved in labour migration regulation and legislation.

► **Table 2. ALMS 2021 Key results on National Policies and Legal Frameworks**

Key results drawn from the ALMS 2021 responses	Related Graphs
African countries have taken important steps in the development of National Labour Migration Policies, with 33 percent of AU countries reporting having one.	Table 3 Figure 7,8
Even where national frameworks specifically for labour migration are insufficient or partially missing, countries have recourse to a range of related laws and regulations that can help with the management of labour migration: 48 percent of countries reported having immigration laws for employment, while 39 percent reported having laws for emigration.	Table 3 Figures 7, 8
Results confirm that regulating migration through a diverse set of legal bodies, enforced by different Ministries, is actually common practice. When available, National Frameworks guide enforcement, and the development of new policies.	Table 4 Figures 10, 11, 12
Results suggest that regulations pertaining to labour migration are fragmented and are often included in other fields of law, such as labour-, employment-, criminal-, anti-trafficking-, social security-, and human rights law. Less often, labour migration-related clauses are incorporated in national Constitutions, or in Collective Agreements.	Table 4 Figures 10, 11, 12
Desirable labour migration provisions set in these legal bodies regulate public and private recruitment — licensing, malpractices, and fees charged. Importantly, there also anti-discrimination, and gender equality provisions.	Table 5 Figures 13,14, 15

⁶⁰ IGAD. (2012) 'IGAD regional migration policy framework'.

⁶¹ IGAD. (2021) 'IGAD Executive Secretary launches the regional migration fund project in Ali Sabieh'.

⁶² ILO (no date) IGAD Member States labour migration experts capacity building in collaboration with ITC-ILO.

At the continental level, the AU-FMPP has a very low and slow ratification rate. Consequently, RECs seem to be the only available vehicles to a joint approach to free movement of labour within the different regions. However, RECs are moving at rather varied speeds, and even within individual RECs the various Member States may proceed at different paces. Only few bilateral agreements currently exist, which only partially address labour migration issues, and are mostly between African and non-African States, rather than among African countries. Hence, as the synthesis of this table's information indicates, the implementation of the overall legal framework on labour migration remains challenging across Africa.

A4.2 National labour law standards on migrant labour among focus countries

This part links the previous section's analysis with summaries on the 14 focus countries' legal profiles on labour migration, and reviews the following key themes:

- States' degree of international cooperation based on their participation in international, continental, regional or bilateral agreements with other States;
- A (non-exhaustive) enumeration of the breadth and content of their national, legal, and institutional frameworks pertaining to migrant labour, and
- States' conformity with human rights' standards, and their provisions for gender equality and affirmative action towards women.

Each synopsis ends with key favourable aspects and shortcomings that every case study country presents. The results of this comparative analysis are synthesised in the concluding section, which presents the overall state of labour migration, and the legal frameworks related to it among the selected countries. The grounds for this classification are further explained in the upcoming section, which analyses findings on each of these domains for each focus country separately.

A4.2.1 Algeria

Algeria has been a member of the ILO since 1962. It is party to ILO Convention No. 97 excluding the provisions of annex II, but not party to Convention No. 143. It is also party to the ICMW with its only reservation thereunder concerning submission to arbitration any dispute that may arise between States parties after agreement of all concerned parties. Besides the specific treaties on migrant workers, Algeria is also a party to the ICCPR, ICESCR, CEDAW, the ACHPR and the AU Protocol on the Rights of Women (ACHPR/RW). Algeria's domestic legal framework on labour and migration is synthesised by the Algerian Constitution, the Act on the Conditions of Entry, Stay and Movement of Foreign Nationals, the Act on Recruitment and Conditions of Employment of Foreign Workers, and the Redundancy Law. Constitutional and legislative frameworks lay out human rights' guarantees, including equal treatment and non-discrimination for national and foreign workers in several aspects. Provisions for gender equity in the job market and women's employment conditions are included, while Algeria also adheres to commitments accruing from ACHPR/RW. Positive aspects of the Algerian framework, among others, include the supremacy of ratified international laws over domestic ones⁶³, which bolsters migrant workers' rights as they may refer directly to the provisions of the relevant ratified international instruments for the protection of their rights; constitutional protection of foreigners' life and property, and a series of other work related rights. Shortcomings pertain to irregular migrants' criminalisation and exclusion, and the preclusion of foreigners from employment in certain sectors. Algeria demonstrates low visa openness⁶⁴, while obtaining a residence card is conditional to holding a work permit or authorisation.

A4.2.2 Cameroon

Cameroon has been a member of the ILO since 1960 and is party to both ILO Conventions Nos. 97 and 143 but has excluded all annexes of ILO Convention No. 97. Although a signatory to the ICMW, it has not yet acceded to it. However, it is a party to the ICCPR, ICESCR, CEDAW, ACHPR and the AU Protocol on the Rights of Women.

⁶³ The Constitution of the People's Democratic Republic of Algeria (2020).

⁶⁴ Information available at <https://www.visaopenness.org/>.

It is also party to the AEC Treaty, and a member of ECCAS. Cameroon's domestic framework on labour and migration comprises the country's Constitution, the Presidential Decree on the Conditions of Entry, the Stay and Exit of Aliens, the Labour Code, the Decree on Conditions of Employment of Employees of Foreign Nationality for Certain Professions or Certain Degrees of Professional Qualifications, the Degree on the Terms of Application of the Law on Commercial Activity, and the Decree on General Statute of the Civil Service of the State, among others. Human rights are constitutionally guaranteed and reflected in a broad range of laws. Gender-related rights accrue from the AU Protocol on the Rights of Women. Advantages include the direct and primary application of ratified international law (conditional to reciprocity), which favours migrant workers' rights.

Cameroon has also established a technical platform linking departments and agencies on migrant labour to assess international labour standards' implementation⁶⁵, while equality of non/nationals in employment relations and conditions is proclaimed, and migrants are covered by Labour Law. Shortcomings include citizen's prioritisation in employment, strict entry and exit visa requirements, complex permit bureaucracy, very low visa openness, and the country's non-participation in operational free movement regimes.

A4.2.3 Democratic Republic of Congo (DRC)

DRC has been a member of the ILO since 1960 but is not party to both ILO Conventions Nos. 97 and 143. Neither is it party to the ICMW. It is, however, party to the human rights instruments including the ICCPR, ICESCR, CEDAW, ACHPR, and the AU Protocol on the Rights of Women. In terms of regional integration treaties, it is party to the AEC Treaty and a member of at least three RECs, COMESA, ECCAS and SADC.

Domestically, labour and migration are addressed in its Constitution, the Decree Determining the Conditions of Employment for Expatriates, the Decree for the Maximum Authorised Percentages of Foreign Employees Within Companies, and the Labour Code. Constitutional equality and non-discrimination regarding human rights is provided, while labour- and a broad range of other rights are accessible to all. Gender equality is constitutionally guaranteed in various domains and rights accruing from ACHPR/RW are accessible. Among the advantages of DRC's framework is the superiority of international law over domestic (subject to reciprocity with other countries), provisions of non-discrimination in work, and a broad range of protections and assurances for workers. Shortcomings pertain to citizens' prioritisation in employment. There is general protectiveness over the national workforce, and a strict cap is placed on foreign employees per sector on top of the clear specification of sectors accessible to foreigners. Complex visa requirements and employment/residence bureaucracy combined with non-participation to operational free movement regimes, limitations to the number of foreigners that can be employed in any sector,⁶⁶ and the reservations of political rights only for Congolese⁶⁷ are among the identified shortcomings.

A4.2.4 Egypt

Egypt has been a member of the ILO since 1986 but it is not party to ILO Conventions Nos. 97 and 143. It has, however, ratified the ICMW. It has entered two reservations to the Convention but which do not substantively affect its obligations under the Convention⁶⁸. Egypt is also party to the ICCPR, ICESCR, CEDAW, ACHPR and the AU Protocol on the Rights of Women. With regards to RECs, Egypt is a member of CEN-SAD and COMESA, both of which do not yet have operative free movement of persons or labour protocols.

⁶⁵ This platform was established by Decree No. 022/CAB/PM of 22 February 2016, as reported in IOM (2020) *Migration Governance Indicators: Republic of Cameroon Profile 2020*, p. 14.

⁶⁶ Arrêté ministériel n° 12/CAB.MIN/TPS/112/2005 du 26 octobre 2005 fixant les pourcentages maxima autorisés des travailleurs étrangers au sein des entreprises.

⁶⁷ Constitution of the Democratic Republic of the Congo (2005) with Amendments through 2011.

⁶⁸ Reservations of Egypt to ICMW available at <https://indicators.ohchr.org/>.

Labour- and migration related issues are addressed in the Egyptian Constitution, the Act Concerning the Entry and Residence of Foreign Nationals, the Law Concerning the Entry and Exit of Expatriates and their Residence, the Labour Code, and the Rules and Implementing Measures Surrounding Work Permits for Foreigners, among others. Workers' rights are constitutionally guaranteed⁶⁹, while the Labour Code includes provisions for foreigners within a broad range of covered rights and obligations.

Pertaining to the rights of women, there are provisions for non-discrimination in employment, as well as regulations on women's work hours, harmful work, maternity leave, nursing breaks, elaborate termination rights on multiple grounds, and the obligatory establishment of nurseries contingent on women employees' number, which count towards the Egyptian framework's advantages. Among its shortcomings are included the fact that Egypt is not a signatory to AU Protocol on the Rights of Women, nor any operative free movement protocols. There is a strict visa regime, pronounced sectoral exclusion and complex employment/work permit bureaucracy. Caps are placed on foreign employees and the total cost of their wages per company⁷⁰. Foreigners' equality of rights is subject to reciprocity from their state of origin towards Egyptians in their territory⁷¹, while obligatory negative HIV certificates must be produced and certain categories (i.e., domestic workers) are excluded from the Labour Code.

A4.2.5 Ethiopia

Ethiopia is a member of the ILO, but it has not ratified ILO Conventions Nos. 97 and 143, nor the ICMW. However, it is party to the complementary human rights instruments, namely the ICCPR, the ICESCR, CEDAW, ACHPR, and the AU Protocol on the Rights of Women. Even though it is under no obligation to incorporate the specific international labour standards on labour migration, it is bound by the human rights instruments it has ratified, which are an integral part of its law and according to which the rights provisions in the constitution should be interpreted.

The Constitution, the Immigration Proclamation, and the Labour Proclamation include labour and migration-related provisions. Regarding human rights, there are constitutional civil and political rights guarantees, and a broad range of rights and obligations apply to migrant workers, who are covered by domestic law⁷². Rights accruing from ACHPR/RW are available. Gender equality and non-discrimination in all economic and social development is declared, while women are offered protections from hazardous jobs and long working hours, paired with extensive paid maternity leave and favourable termination rights. Among the advantages of the Ethiopian system is the fact that foreign workers are addressed in labour law and are being considered equal to citizens⁷³. Young workers are protected, and national employment services assist foreigners' recruitment. Shortcomings include non-participation to free movement protocols, strict visa and migration requirements, and the need for complicated ministerial approval on work permits.

A4.2.6 Côte d'Ivoire

Côte d'Ivoire joined the ILO in 1960 and is not a party to both ILO Conventions Nos. 97 and 143. Neither is it party to the ICMW although it has ratified several human rights instruments including the ICCPR, ICESCR, CEDAW, the ACHPR and the AU Protocol on the Rights of Women. Côte d'Ivoire is also party to the AEC Treaty and is a member of CEN-SAD as well ECOWAS. Côte d'Ivoire participates in international human rights instruments (excluding ICMW), high continental/regional engagement, and no reported bilateral agreements. At the national level, labour and migration provisions are included in the Constitution, the Law Regarding Entry and Stay of Foreigners; the Law Regarding Identification of Persons and Stay of Foreigners, the Regulation of Recruitment and Visa Fees for Work Contracts of Non-Nationals, the Identification of Persons and Stay of Foreigners, the Ordinance Regarding the Suppression of the Stay Permit, the Labour Code, and the Code of Social Provisions, among others.

⁶⁹ Constitution of Egypt (2014).

⁷⁰ Minister of Manpower resolution, Resolution 146 of 2019 published in official gazette 160 on 16 July 2019, article 5.

⁷¹ Laws of Egypt, Labour Code No 12 of 2003, article 28.

⁷² Constitution of the Federal Democratic Republic of Ethiopia (1994).

⁷³ Federal Democratic Republic of Ethiopia, Labour Proclamation, No. 377/2003.

Constitutional and legislative guarantees are offered for human rights, such as non-discrimination on several grounds, equal access to employment, and a broad range of labour rights and freedoms to all⁷⁴. Special provisions are made for women regarding pregnancy and the postnatal period, while rights accruing from the ACHPR/RW are also available.

Advantages of the country's overall framework include the direct and primary application of ratified international law, the equal application of the Labour Code to migrants and nationals,⁷⁵ special provisions for women and young workers⁷⁶, and increased visa openness. Côte d'Ivoire is party to ECOWAS and in accordance with the ECOWAS free movement protocols, it has relaxed immigration and residence requirements for all ECOWAS citizens, migrant workers included.

A4.2.7 Kenya

Kenya is a member of the ILO since 1964 and is party to both ILO Conventions No. 97 (excluding all annexes) and No. 143. It is not party to the ICMW, although it is party to other relevant human rights treaties such as the ICCPR, ICESCR, CEDAW, ACHPR and the AU Protocol on the Rights of Women. Kenya is also party to the AEC treaty and is a member of three RECs: COMESA, IGAD, and EAC. Domestically, labour and migration issues are addressed in the Kenyan Constitution, the Citizenship and Immigration Act, the Citizenship and Immigration Regulations, the Employment Act, the Employment and Labour Relations Court Act, the Labour Institutions Act, the Labour Relations Act, the National Social Security Fund Act, the Occupational Health and Safety Act, the National Labour Board, the Wages Council, the Industrial Court, and the Inspectorate Offices, among other laws and institutions. Fundamental freedoms are constitutionally guaranteed⁷⁷, including non-discrimination on several grounds, and a broad range of work rights accessible to migrants. Provisions for women – especially regarding maternity – are offered, including various types of leaves⁷⁸, and rights accruing from ACHPR/

RW are available. Advantages of the Kenyan case include the authorities' guarantee and promotion of migrants' and their families' equal opportunity in employment, allowing benefits' transfer and relaxed requirements for EAC nationals, the provision of migration benefits for other nationals, and the relatively relaxed visa requirements. However, the country's complex work and immigration permits' bureaucracy is a notable shortcoming.

A4.2.8 Morocco

Morocco is a member of the ILO since 1956, it is a party to ILO Convention No.97 since June 2019, excluding the provisions of all its annexes. It is not party to ILO Convention No. 143 but is party to the ICMW. Its only reservation under the ICMW concerns the submission to arbitration of a dispute between parties, which according to the Kingdom of Morocco should only occur upon agreement of all parties. It is also party to the ICCPR, ICESCR, and CEDAW (with some reservations). Although a member of the AU, it is neither party to the ACHPR nor the AU Protocol on the Rights of Women. It is, however, a party to the AEC treaty and is a member of both AMU and CEN-SAD. The Moroccan domestic legal order regarding labour and migration is contained in its Constitution, the Act on Entry and Residence of Foreign Nationals, and the Labour Code, among other texts. The equality of foreigners' rights and freedoms to those of nationals is constitutionally asserted, and the Labour Code is applicable equally to all without discrimination on a broad number of grounds. Morocco, however, has not ratified any instruments on women's rights and women are deemed vulnerable to exploitation. Duly ratified international treaties' have primacy over domestic law, yet the right to work and to receive support in work-search is directed exclusively to citizens⁷⁹. Stringent migration and visa policies with no operative free movement regime paired with the criminalisation of irregular migration and the dire situation of domestic workers are among the starkest shortcomings.

⁷⁴ The Constitution of Côte d'Ivoire (2016).

⁷⁵ Loi No. 2015-532 du 20 Juillet 2015 portant Code du Travail (Labour Code, 2015), article 2.

⁷⁶ Ibid, chapters 1-3.

⁷⁷ Constitution of Kenya (2010).

⁷⁸ Laws of Kenya, Employment Act, No. 11 of 2007, sections 28-30, particularly section 29A included by Amendment Act No. 2 of 2021.

⁷⁹ The Constitution of Morocco (2011).

A4.2.9 Nigeria

The Federal Republic of Nigeria is a member of the ILO as well as a party to Convention No.97, but it has excluded all annexes. It is also a party to the ICMW, as well as other international and regional human rights instruments, to wit, ICCPR, ICESCR, CEDAW, ACHPR, and the AU Protocol on the Rights of Women. International law is implemented after due domestication in Nigeria. Nigeria is also a member state of the ECOWAS, which region in Africa witnesses the highest level of free movement of persons. It is also a member of CEN-SAD which region, as earlier noted, has lower levels of free movement. Labour- and migration related provisions are incorporated in various texts, including the Constitution, the Immigration Act, and the Labour Act, and involves institutions such as the Ministry for Immigration, and the Comptroller General of Immigration. Regarding human rights, there is a constitutional prohibition of discrimination on various grounds, and work-related rights are part of fundamental state policy⁸⁰. Equal and humane work conditions are available for all, together with a broad range of rights, protections, and responsibilities. Women enjoy pregnancy and maternity leave rights, while several types of hazardous work are prohibited⁸¹, and the rights of ACHPR/RW are available to them. There are relaxed immigration laws for ECOWAS nationals, as well as a moderate visa regime, and protections are offered to young workers⁸². However, citizens are prioritised in employment-related issues, and at times the legal language is unclear as to whom the law covers.

A4.2.10 Somalia

Somalia has been a member of the ILO since 1960, but it has only ratified ILO Conventions 97 and 143 in 2021 (and 181/190) and they will enter into force in 2022. For the time being these Conventions are not yet operative in Somalia.

Nevertheless, Somalia is bound by relevant international and regional instruments to which it is a party, namely, the ICCPR, ICESCR, ACHPR, CEN-SAD and COMESA. It has not ratified any of the instruments on the rights of women. Labour-

and migration rights are included in the Somali Constitution, (Federal) Immigration Laws, the Labour Code, and authorities such as the Labour Authority under the Ministry of Labour. There is constitutional non-discrimination on several grounds against any person, and provisions for a range of fundamental labour rights as well as access to justice for all⁸³. Women are offered protection from sexual abuse, discrimination, and segregation at work, and it is prohibition to terminate their contracts, while pregnant and for one year postnatal. Maternity leave with half pay is available, as well as nursing breaks. However, Somalia has not ratified any of the instruments on women's rights. Although many pertinent international labour migration laws are not applicable, in the case of Somalia the domestic legal framework, which mainly revolves around the Labour Law of 1972⁸⁴, appears to offer adequate protection to migrant workers. Among the shortcomings is that constitutional equality is reserved for citizens, women's rights treaties are not ratified, laws are variable by province, the administrative and immigration systems are quite complex, and the country is not a member to free movement regimes, while having extremely strict visa requirements.

A4.2.11 South Africa

South Africa became a member of the ILO in 1919 until 1966. It then re-joined in 1994. It is not party to the ILO Conventions Nos. 97 and 143, but in 2013, it ratified the Domestic Workers Convention (ILO Convention No. 189), nor is it party to the ICMW, but it has ratified international human rights instruments that are of relevance such as the ICCPR, ICESCR, CEDAW, ACHPR, and the AU Protocol on the Rights of Women. It is also party to the AEC Treaty, and in terms of RECs, it is a member of SADC.

The South African domestic framework on labour law and migration is divided among several texts, such as the Constitution, the Immigration Act & Amendment, the Labour Relations Act, the Basic Conditions of Employment Act, the Labour Laws Amendment Act, the Employment Equity Act & Amendment, the Compensation for Occupational

⁸⁰ The Constitution of the Federal Republic of Nigeria (1999).

⁸¹ Federal Republic of Nigeria, *Labour Act*, Chapter 198, section 54.

⁸² Federal Republic of Nigeria, *Labour Act*, Chapter 198, section 59-64

⁸³ The Constitution of Somalia (2012).

⁸⁴ Somalia, Law No. 65, Labour Code (1972).

Injuries and Diseases Act, the Social Assistance Act, the Occupational Health and Safety Act, the Mine Health and Safety Act, the Unemployment Insurance Act, and includes institutions such as the Department of Home Affairs, and the Ministry of Labour, Trade and Industry. The Bill of Rights enshrined in the Constitution, and the equality and non-discrimination of persons on various grounds is guaranteed, paired with a broad range of rights and obligations applying to all⁸⁵. Maternity, and other leaves and protections are available to women, as well as rights accruing from the ACHPR/RW. Advantages of the South African framework include the application of the Labour Act to migrants, the existence of several laws on occupational health and safety applicable to migrants, the relaxed regulations for citizens of bilateral treaties' signatories, and a robust constitutional and legal framework from which migrant workers can claim rights. Shortcomings include some citizen-specific work rights, the complex immigration law and various permits' requirements, and a strict visa regime. Migrants are generally not covered by social assistance, nor unemployment insurance, and are required to repatriate after their contracts end. South Africa is also not party to operational free movement regimes.

A4.2.12 Sudan

Sudan is a member of the ILO, but is neither party to Conventions 97 and 143 nor the ICMW. While it is party to the ICCPR, ICESCR and the ACHPR, it is not party to the CEDAW or the AU Protocol on the Rights of Women. In terms of RECs, Sudan is a member of CEN-SAD and COMESA.

Labour and migration related issues are addressed in the Sudanese Constitution, the Passport and Immigration Act; Aliens Affairs Regulations; Labour Code; Non-Sudanese Employment Act, the Social Insurance Act, the Ministry of Labour and Administrative Reform, and the National Fund for Social Security. A range of human rights are constitutionally guaranteed to all without discrimination on many grounds⁸⁶. The Constitution also addresses gender equality and provides for positive discrimination in women's favour. Women are prohibited from hazardous

sectors, while the country has not ratified any of the instruments on women's rights. Sudan has established employment agencies since 1997, and labour laws protect nationals and foreign workers largely without discrimination. However, the stringent entry, exit, visa and other permits' requirements, including medical tests, are among its shortcomings⁸⁷, together with the non-ratification of women's' rights treaties. Moreover, the extensive range of sectors that are not covered by the Labour Code, and the requirements for authorisations to employ a foreigner further complicate employment processes. Additionally, a migrant's employment is conditional to the inability of locals or resident foreigners to cover the post⁸⁸, with contractual requirements for locals to take over migrants' positions⁸⁹. Sudan has very low visa openness and is not a party to any fully operational free movement regime, while immigration laws do not support regional free labour movement, and there are stringent rules against issuing work permits to people with HIV/AIDS.

A4.2.13 Uganda

Uganda has been a member of the ILO since 1963 and is party to ILO Convention No.143. It is also party to the ICMW having made a reservation on its inability to offer free legal assistance as required under the Convention. It is also party to the key human rights instruments including the ICCPR, ICESCR, CEDAW, ACHPR and the AU Protocol on the Rights of Women. It is party to the AEC Treaty and is also a member of at least three RECs including EAC, COMESA and IGAD. Labour and migration issues are touched upon in the Constitution, the Citizenship and Immigration Control Act, the Employment Act, the Labour Disputes (Arbitration and Settlement) Act, Labour Unions Act, the Occupational Health and Safety Act, the Worker's Compensation Act, and the National Social Security Fund Act, among others. There is constitutional equality for all and non-discrimination on several grounds, with a broad range of work-related rights available to all persons⁹⁰. There is an obligation for equal pay to women, prohibition of harassment, provision for parental leave, and the rights accruing from the ACHPR/RW. Advantages include authorities' requirement to promote and guarantee equality

⁸⁵ The Constitution of the Republic of South Africa (1996).

⁸⁶ The Constitution of Sudan (2019).

⁸⁷ The Aliens Affairs Regulation (2006) Regulation 21.

⁸⁸ Laws of Sudan, The 1997 Labour Code, section 12.

⁸⁹ *ibid*, sections 8 and 9.

⁹⁰ The Constitution of the Republic of Uganda (1995)

of opportunity for migrants and their families, and the existence of several laws pertaining to migrant workers, together with relaxed regulations to EAC citizens, and the provision of not only maternity but also paternity leave⁹¹. Among the shortcomings it should be mentioned that certain sectors are reserved for citizens, rights are restricted to lawful migrants, and the employment of irregular migrants is illegal⁹².

A4.2.14 Zimbabwe

Zimbabwe has been a member of the ILO since 1980 and is not party to both ILO Conventions Nos. 97 and 143. Neither is it party to the ICMW. It has acceded to key human rights instruments including the ICCPR, ICESCR, CEDAW, ACHPR and the AU Protocol on the Rights of Women. Regarding regional integration, it is party to the AEC Treaty and belongs to at least two RECs, COMESA and SADC. Labour and migration rights are included in the Constitution, the Immigration Act, the Immigration Regulations, the Labour Act, the National Social Security Authority Act and Accident Prevention and Workers' Compensation Scheme, the Factories and Works Act, the Mines and Minerals Act, the Mining, Management and Safety Regulations, the Labour Relations (HIV and AIDS) Regulations, among others. There is constitutional equality and prohibition of discrimination on numerous grounds, and a broad range of work-related rights available to all, while the labour law applies to migrants and citizens⁹³. Fully paid maternity leave is provided to women⁹⁴, together with the rights accruing from ACHPR/RW. Zimbabwe's ratified international law is domesticated after incorporation by the Parliament, with provisions for young workers and complimentary labour organisations and a moderate visa regime. Moreover, social security arrangements and dispute resolution institutions are established, together with a range of laws on occupational safety.

There is also an expressed intention to conclude bilateral agreements to enhance migrants' social security. However, complex entry, stay, and permit regulations, as well as the country's non-participation to free movement regimes are among its noted shortcomings.

A.5. Synthesis and concluding observations

A5.1. International frameworks and human rights standards

1. All States analysed in this report are members of the ILO but only six are party to ILO Convention No. 97, and only four are party to ILO Convention No. 143 – the relevant ILO instruments that deal with labour migration and migrant workers. Consequently, **many States may not be bound by the ILO Conventions' provisions**, and even then, certain provisions may be excluded, primarily the annexes to Convention No.97. **As members of the ILO, however, all States may still be guided by relevant ILO Conventions and Recommendations in developing their domestic approaches to labour migration.**
2. All States are party to several human rights instruments, both international and regional. **All States have adopted human rights standards and domesticated them in their Constitutions.** Hence, even though they may not be bound by any migrant worker-specific instrument, foreign workers may still be accorded their rights based on the broad protections provided in the Bill of Rights embodied in respective national Constitutions. However, the ICMW, the most comprehensive instrument on migrant workers' rights, has only been ratified by a relatively low number of States.
3. **Despite domestication of human rights standards, in some countries some rights' provisions, including work-related rights, refer to citizens rather than all persons in the State**, e.g., specific sections of the Labour Act of Nigeria, and the Constitution of Algeria (article 61). In such instances, States should reconcile provisions that tend to discriminate against migrant workers with their international obligations, as well as with provisions of other domestic laws that may refer to all persons without distinction on the basis of nationality or residence status.

⁹¹ Republic of Uganda, The Employment Act, No. 6 of 2006, sections 56-57.

⁹² *ibid*, section 37

⁹³ The Constitution of Zimbabwe (2013).

⁹⁴ *ibid*, article 65

4. **Despite proclamations of the opposite, discrimination persists in some countries regarding a broad range of issues and on several grounds, including health-related issues and migrants' residence status.**
5. **While in almost all the countries labour- or work/employment-related laws largely espouse non-discrimination between citizens and non-citizens in their application, immigration laws tend to restrict foreign workers' access to domestic labour markets.** More liberal stance is reserved only towards highly qualified workers rather than low-skilled ones, such as domestic workers.

A5.2. Continental framework

6. **As far as laws go, there is no concerted approach to labour migration in Africa. The AU-FMPP which is one step towards this approach has a very low, and slow, ratification rate.** The MPFA is a non-binding policy document. Consequently, RECs seem to be the only available vehicles to such a concerted approach to free movement of labour within the different regions. However, RECs are moving at varied speeds, and even within individual RECs, various Member States may proceed at different paces.

A5.3. Regional frameworks

7. Where REC free movement of persons and workers regimes are operative, their application may supersede the application of bilateral labour migration agreements with proximate States e.g., the case of Côte d'Ivoire and its ECOWAS neighbours.
8. RECs are not parties to either the ILO or international or regional human rights instruments, so the free movement of persons and workers regimes under RECs are not made under the aegis of the ILO Conventions and may not include their aspects. **As a result, the free movement of persons/workers regimes operate in parallel to the migrant workers' regimes under both the ILO Conventions and the ICMW.** In any case RECs tend to

have a more complete membership of all States concerned than the international instruments of migrant workers or labour migration which are ratified by only a few States.

A5.4. Bilateral agreements

9. The contents of most bilateral labour agreements are not readily available for independent scrutiny, making it difficult to assess their compliance with States' obligations towards migrant workers. Moreover, **bilateral labour agreements exist mostly between African and non-African States, rather than among African countries.**

A5.5. Domestic frameworks

10. Almost all countries analysed retain **stringent laws against irregular migrants**, including those that have ratified the ICMW. Only South Africa includes provisions on irregular or undocumented migrants' regularisation rather than punishment.
11. Immigration laws are country-specific, with each country setting specific entry and stay requirements. **Many African countries require visas from other African nationals. This inhibits labour migration**, save for countries with bilateral agreements or those partaking in RECs with operational free movement provisions, such as the EAC and ECOWAS.

A5.6. Looking ahead

12. Since in each State there are multiple laws affecting migrant workers spread across various statutes, **States need to provide accessible and easily comprehensible information to migrant workers on their rights and obligations**, as recommended in the relevant ILO instruments.
13. This analysis has focused on the articulation of national and international legal frameworks but has not examined their implementation in practice. Besides the States that have ratified the ICMW, **there**

are no labour-specific monitoring and reporting mechanisms under other international and regional instruments. Therefore, monitoring States' compliance with their obligations towards migrant workers remains challenging.

- 14. Many domestic labour laws have monitoring, supervisory and complaints mechanisms, but their effectiveness has not been assessed.** While the laws may seem to uphold the rights of migrant workers in many aspects, it remains to be seen whether this is the case in practice.

B. A thematic analysis of existing frameworks

Africa has the fastest-growing population in the world; this population, if provided with decent work opportunities, can provide a development dividend by contributing to an estimated 10-15 per cent increase in the continent's GDP volume by 2030⁹⁵. Migration can be a catalyst for continental, regional, national, and local development if workers are provided with legal pathways for migration and adequate protections.

While the number of African migrants on the move has been increasing, migrant workers account for a small share of the African regular workforce, however, amounting to only 4.5 per cent of the (officially registered) continent's workforce.⁹⁶ This is an under-representation of the reality: the low percentage is a consequence of the underlying structure of labour migration, which – in the majority of cases – occurs at borders through informal, circular, cross border movement and trade, and is therefore under-reported in national or regional statistics and under-represented in public discourse and policy making. Other factors may also impede or constrain access to legal labour migration pathways across the continent, as identified in our desk review.

Among the key features requiring particular attention, the following have been singled out:

- 1. Cooperation:** This section addresses deficiencies on labour migration dialogue and coordination among national and regional labour actors and institutions. More cooperation is recommended between RECs and member states, but also with non-governmental actors and the private sector, such as with recruitment agencies. The engagement of these stakeholders with the wider civil society is discussed, to identify leverages or mechanisms to support or protect migrant workers.
- 2. Human rights and labour standards:** Rights on paper may not be implemented in practice for migrant workers, with a slow implementation of regional treaties and protocols permitting free movement of labour, the absence of social protection and social security. This section discusses the low level of implementation of migrant workers' rights and conditions for safe work.
- 3. Gender and Empowerment:** the feminisation of migration in Africa makes it imperative to acknowledge the gender-specific contributions of women labour migrant workers, as well identify and promptly address their needs and the violations of their rights. This section addresses the current mechanisms and programmes in support of women migrant workers, who find themselves multiply exposed and vulnerable to exploitation and abuse, and reiterate the need to develop statistics, and legal and policy measures to support the gender specific needs of migrants.
- 4. Climate change and seasonal labour migration:** The pressing global issue of climate change is highly pertinent for the African continent, even more so as it impacts the pattern and pace of centuries-old pathways of migration in the area. This section will examine the degree to which current legal frameworks take into consideration these parameters, and the links of climate migration to other cross-cutting issues for states, such as security, and conclude by suggesting ways forward based on policy synergies both at the international and the national level necessitated by the complexity and

⁹⁵ AU/IOM (2020) *Africa Migration Report: Challenging the Narrative*.

⁹⁶ ILO (2021) *Global Estimates on International Migrant Workers: Results and Methodology*.

scale of climate change.

B1. Cooperation

The complexity of labour migration makes it impossible for any one country to tackle the issues emerging from it individually.

Solutions to a range of challenges, including the safeguarding of migrant workers' rights, their practical implementation, their protection from exploitative practices, and addressing the effects of pressing global issues such as climate change, require close working relationships between several countries at multiple levels spanning from the global to the local, with the regional and local level often seen as the most conducive ones. Cooperation processes can bridge gaps between policy fields and stakeholders, including international organisations,

governments (national, federal, and local), employers' and workers' organisations, various non-governmental organisations (NGOs), and civil society organisations (CSOs), as well as the civil society and grassroots organisations at large. To address the cooperation gap, this section seeks to draw from bilateral agreements, existing dialogues and partnerships to date.

The following four questions have guided this inquiry:

1. How do regional dynamics affect patterns of labour migration?
2. What leverage mechanisms exist for countries of origin in support of their migrant worker citizens abroad?
3. What key non-governmental and civil

► **Table 4. ALMS 2021 Key Results on Cooperation**

Key results on Cooperation drawn from the ALMS 2021 responses	Related Graphs
Bilateral labour migration agreements are increasingly becoming a tool used by African countries to manage labour migration.	Table 2 Figure 4
More than 40 percent of African countries report having entered a BLA; 41 percent are currently negotiating an agreement; and 35 percent are considering entering into a new agreement.	Table 2 Figures 4, 5, 6
All focus countries of the Legal Analysis that responded to the survey (11/14), reported either having a BLA or being engaged in negotiations.	Table 2
More than 50 percent of the countries who already have a BLA have also entered into bilateral social protection agreements.	Table 2 Figure 4
For the ILO, adoption of international frameworks is based on the principle of tripartism — dialogue and cooperation between governments, employers, and workers. Although it has been highlighted as a best practice, just 13 percent of countries in Africa report being engaged in tripartite consultations.	Table 2 Figures 4, 5, 6
A majority of the 14 countries of interest to this study are considering ratifying various international conventions related to labour migration. These serve to guide and to harmonise member states engagement and responsibilities towards labour migrants.	Table 4 Figures 10, 11, 12
Successful labour migration depends on the institutions and middlemen who match labour supply and demand. Results suggest that most countries in Africa have both Private Employment Agencies (PRAs) and Public Employment Services (PES) — 48 percent report having PRAs and 50 percent PES.	Table 14 Figures 39, 40, 41
Adequate regulation and monitoring of Private Employment Agencies (PRAs) have been documented as an important factor improving labour migrants' experiences and livelihoods. More than 40 percent of countries reported having a competent authority specifically placed in charge of the monitoring and control of PRAs, usually the Ministry of Labour.	Table 10 Figure 28, 29, 30
Many African countries have recently implemented measures to combat recruitment malpractices — 37 percent report they do; and in 33 percent of countries employers need to meet certain requirements. However, few countries impose penalties on recruitment malpractices — 30 percent.	Table 16 Figures 44, 45

society stakeholders are involved in implementing labour rights and benefits?

4. How are recruitment agencies regulated?

Material will be drawn from the ALMS 2021 findings and will be supplemented with information from key stakeholders' interviews, as well as expert insights on national and international legal frameworks.

B1.1 The effect of regional dynamics on patterns of labour migration

Labour migration in Africa is largely intra-regional (80%) with varying geographic extensions and is mainly characterised by the migration of low-skilled workers. Increasing demands in economic sectors such as agriculture, fishing, mining and construction, as well as services such as domestic work, health care, cleaning, hospitality, and retail trade are significant mobility drivers across the continent. Growing inter-regional corridors to the Middle East and Gulf Cooperation Council (GCC) countries, as well as more traditional flows to Europe and North America are noteworthy.⁹⁷ In 2019, African countries hosted an estimated 26.5 million migrant workers, two per cent of the world's international migrant labour force⁹⁸. RECs play a key role in pushing various agendas promoting positive impacts on their citizens. REC Member States are expected to cooperate in the formulation, signing and implementation of these agreements. However, the level of their implementation across regions varies widely.

One of the core roles of the Regional Economic Commissions is to develop regional policies, including policies to protect migrant workers and provide a basis for harmonisation across states and RECs. For labour migration legislation to be effectively implemented at the continental, regional and national levels, there is need for harmonisation across the board. The AU has defined norms and strategic guidelines regulating labour migration, and several regional bodies, including IGAD, ECOWAS, SADC and COMESA, play a key role in the establishment of effective collaboration mechanisms among migration governance structures. Labour migration protocols are

also in place and once incorporated into domestic law, respective member States are obliged to ensure that they are implemented. Despite the varied applicability and consequent implementation of the various regional and AU norms, these agreements provide a predictable legal framework to protect migrants, if fully implemented. Informants for this study consider that **institutions at the REC level should also address the gaps in the implementation of these agreements.**

As one interviewee noted:

"Differences exist in the capacity to transfer and implement REC policies among member states: IGAD, for example, although having made significant progress in terms of migration policy formulation, has a low rate of implementation. Free movement agendas remain in the sphere of wishful aspirations, as even the implementation of the ECOWAS regional labour and employment policy remains limited. Similarly, under the EAC Common Market Protocol signed in 2009, which came into force in 2010, workers have not been moving as much as was anticipated as some EAC member states have agreed to implement certain aspects of the protocol, other countries have not."

► KII 4 Kenya – Refugee Affairs Secretariat (RAS)

⁹⁷ ILO (no date) *Labour migration in Africa*. <https://www.ilo.org/africa/areas-of-work/labour-migration/lang--en/index.htm>

⁹⁸ UN (2019) *SDG Indicator 10.7.2: Number of countries with migration policies to facilitate orderly, safe, regular and responsible migration and mobility of people*.

The concerns raised on the implementation gap are common across RECs. The same applies to COMESA, where not all Member States are at the same level of development or implementation. Consequently, this slows down integration, as well as the implementation of the agreements at a practical level, according to one COMESA representative from Zambia.

It is important to note, however, that **despite the various shortcomings there is a gradual shift towards an ever-closer cooperation, and bottom-up integration between African countries on issues of increasing importance,** such as labour migration. This is supported by perspectives that see the inherent value in fostering such inter- and intra-regional, as well as bottom-up cooperation as stated illustratively by the responses below:

"Hence, finding a way to harmonise those issues, and allaying the fears of each Member State to know that we are better off together than we will ever be as individuals."

► **KII1 Nigeria – Nigerian Institute for Advanced Legal Studies**

"We are in the age of multilateralism, and here is the greatest challenge for these States: it is to take care of the problems of their populations through sub-regional meetings. What I mean by that is that African leaders must ensure integration not only at the top but also much more at the bottom. That the populations in Cameroon, since we are here, welcome their brothers from Chad and do not

perceive them as a threat. Thus, the first challenge is the real political will and that our sub-regional organisations play their role."

► **KII 1 Cameroon – External Relations Ministry**

One of the hopes for expanded cooperation and for greater support to implementation going forward is in increasing **capacities to engage with and cooperate with NGOs, and other organisations on labour migration.** In the case of the EAC, this cooperation branches out to the East African Union Trade Confederation (EAUTFC) – an umbrella body for the labour movement in the region, which brings together six affiliates and a membership of approximately 5.8 million workers. Other organisations engaging with the Secretariat include the East African Business Council (EABC), the East African Civil Society Forum (EACSF), and the East African Employers Organisation (EAEO). The EAUTFC has an observer status in the EAC with a privilege to engage the EAC Secretariat and partner states on matters affecting workers across the region.

Regarding **regional collaboration with CSOs and NGOs among Member States,** the Arab Maghreb Union (AMU) plans to do this through the objectives of the African Peace and Security Architecture (APSA) – a programme involving government and civil society, which also addresses migration, national security and terrorism. Through this initiative, governments and CSOs are brought together, which helps realising these objectives. Furthermore, the AMU and a team of experts have collaborated with the ILO on the collection of migration-related data to be used for report validation by the ILO. Currently, the AMU envisages working on a legal framework on labour migration with the aim of enhancing migrant workers' integration into the society.

A second aspiration is for **States to enhance their inter-state collaboration.** This hope was raised by a Cameroonian diplomat, while reflecting on the work of the CEMAC and ECCAS states, noting that their view of labour migration

needs to evolve, beyond mere competition on the labour market, to exchanges that benefit development. State's current attitudes are perceived as hindering progress in achieving common regional goals in terms of labour migration governance. A similar concern was raised by an academic in Ethiopia, while reflecting on the primacy of national interest over regional or continental agreements' implementation.

The reasons for the limited effects of regional or continental frameworks on national policies, such as on Ethiopia's labour migration policy, need to be reviewed to ensure that primacy is given to the IGAD policy framework rather than European-influenced and funded policies⁹⁹.

B1.2 Home country leverage mechanisms in support of labour migrant citizens abroad

Ensuring that the human rights of all migrants are adequately protected, and their well-being is safeguarded need to be at the core of migration management policies.

Migrant workers face major legal and practical obstacles in navigating host countries' national systems and in accessing social protection benefits. Often, they are denied access or, due to a host of factors, are only granted partial access to social security. In the case of the most vulnerable among the already disadvantaged migrant populations, such as undocumented persons, women and youth, protections and support are even scarcer.

From a rights-based approach to social protection, the responsibility of upholding migrants' fundamental rights through the adoption and application of appropriate measures falls first and foremost on the receiving countries. Yet, home countries are not absolved from providing effective protections and assistance to their citizens, who are employed as labour migrants abroad, either unilaterally or in cooperation with other stakeholders.

Issues of social security coverage, violation of rights, administrative obstacles, minimum qualifying conditions to partake to social security schemes, questions of rights portability, and lack of social security coordination are among the most common concerns for low-skilled migrant workers¹⁰⁰.

Social protection¹⁰¹ for migrant workers requires more than just access to social benefits. Leverage mechanisms available to sending countries in support of their worker

citizens employed in the territory of other States include, among others: the conclusion of social security agreements as the most commonly used and the most protective instrument to ensure the portability of social security rights and entitlements; the mobilisation and enforcement of a wide array of rights in destination countries to improve migrant workers' employment and life conditions through BLAs; combatting exploitative recruitment practices; offering effective and comprehensive training pre-departure, and diplomatic/consular assistance post-arrival.

Unilateral measures can be applied by countries of origin as well as countries of destination to fill gaps in social security coverage to those abroad through national security systems and migrant welfare programs in home countries, or the offer of emergency and repatriation services, and, on rare occasions, welfare provisions for families left behind are mechanisms provided by home countries to their citizens working abroad. Such unilateral measures include amongst others: the application of the equality of treatment principle in national labour and social security laws, the inclusion of migrant workers and their families in social protection floors, allowing for flexibility in the qualifying conditions for getting access to benefits, allowing the retroactive contribution to national social security systems, and creating voluntary or mandatory social security schemes for nationals working abroad.

⁹⁹ KII 1 Ethiopia - Ministry of Labour and Social Affairs (MoLSA).

¹⁰⁰ Migrant Forum in Asia (2013) *Social protection for low-skilled migrant workers and their families, Policy Brief No. 7*.

¹⁰¹ The ILO definition of social protection used throughout this text is the following: "Social protection, or social security, is a human right and is defined as the set of policies and programmes designed to reduce and prevent poverty and vulnerability throughout the life cycle. Social protection includes benefits for children and families, maternity, unemployment, employment injury, sickness, old age, disability, survivors, as well as health protection". Source: ILO (2017) "World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals".

BLAs are cooperation frameworks between countries of origin and destination that spell out the terms and conditions relating to countries' engagement with labour migrants, and to which a sending country might find recourse in the protection of its citizens in the territory of the other signatory. BLAs cover rights, benefits, wages, leave, access to services including health and education, dispute resolution, repatriation among others. BLAs require the harmonisation of legislation between involved parties and create legally binding rights and obligations governed by international law on their specific responsibilities and actions on issues related to their scope¹⁰².

BLAs, whenever available, allow migrants to benefit from protections and rights mutually afforded to them by their home and host countries, and grant sending countries the right to initiate action in defence of their nationals in case of violations. BLAs have experienced a resurgence in the African region since the 1990s, with African countries entering agreements with European and Arab countries to cover a wide range of labour issues and fill specific skill gaps¹⁰³.

However, the agreements' terms are not always adhered to, which exposes the labour migrants to abuse. Countries should strive for the coherent and consistent implementation of their BLA's on labour migration in their co-signatories and aspire that these provisions should not remain at the level of political aspirations but they are incorporated in national legislation, informing their administrative processes, and the practices of civil society actors.

Memoranda of Understanding (MoU) are usually non-binding agreements, which may be more general in contents, referring to broad principles of cooperation, concepts of mutual understanding, goals and plans shared by the parties¹⁰⁴. Generally, BLAs and MoUs are successful approaches to regional economic development and cooperation as they are easier to negotiate due to the involvement of a fewer number of signatories, they tend to go into effect faster, and allow countries to reap benefits sooner.

Some countries have stronger preference for this pathway to regional cooperation than others. Egypt^{105,106,107,108,109,110} and Algeria^{111,112,113,114,115} are among the study's focus countries that have a higher number of bilateral engagements, some of which are with countries outside Africa, while for other states no BLAs or MoUs are reported.

Abuse and violation of work agreements by recruitment agencies and employers are a common occurrence for low skilled migrant workers in their destination countries, against which they are usually left to fend for themselves.

Countries of origin have a vested interest and responsibility to offer support to their citizens abroad by providing adequate and efficient regulation of recruitment practices, thereby substantially reducing the abuse and exploitation migrant workers face. Migrant workers from countries of origin whose governments and regulatory agencies promote safe recruitment practices report experiencing a reduction in overall employment adversity¹¹⁶.

¹⁰² IOM (2019) 'Bilateral labour migration agreements in African Union Member States: Taking stock and the way forward'.

¹⁰³ *ibid.*

¹⁰⁴ *ibid.*

¹⁰⁵ ILO (2017) *Study on Bilateral Labour and Social Security Agreements in North Africa*.

¹⁰⁶ Awad I. (2021) 'On occasion of the pandemic: Reflections on Egyptian labour migration' *International Migration*, 59(1), pp. 281-284.

¹⁰⁷ Mémorandum d'entente de coopération entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République arabe d'Égypte dans le domaine de la formation professionnelle, signé au Caire, le 13 novembre 2014.

¹⁰⁸ Presidential Decree No. 144/2004 on the Approval of an Agreement on Freedom of Movement, Residence, Work and Property Ownership between the Governments of the Arab Republic of Egypt and the Republic of Sudan, signed in Cairo on 4 April 2004.

¹⁰⁹ Egyptian Minister of Manpower resolution, Resolution 146 of 2019 published in official gazette 160 on 16 July 2019, article 2.

¹¹⁰ President of the Republic of Egypt Decree No. 56/2003 on the Approval of an Agreement of Cooperation in the Field of Insurance and Welfare and Social Development between the Governments of the Arab Republic of Egypt and the Republic of Sudan, signed in Cairo on 29 July 2002.

¹¹¹ Mémorandum d'entente de coopération entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République du Mali dans les domaines du travail, de l'emploi et de la sécurité sociale, signé à Bamako, le 3 novembre 2016.

¹¹² Convention entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République fédérale démocratique d'Éthiopie dans le domaine de la formation professionnelle et technique, signée à Alger le 15 mars 2015.

¹¹³ Protocole de coopération dans le domaine de la sécurité sociale entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République tunisienne, signé à Tunis le 4 décembre 2008; Accord de coopération dans le domaine de l'emploi entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République tunisienne, signé à Alger le 5 août 2007.

¹¹⁴ Convention de coopération en matière de travail et d'utilisation des ressources humaines entre le Gouvernement de la République algérienne démocratique et populaire et le Gouvernement de la République islamique de Mauritanie. Faite à Alger le 27 décembre 2004.

¹¹⁵ Anon (1979) 'Algeria - France. Bilateral trade union agreement stresses vocational training and social welfare for migrants'

¹¹⁶ Bisong, A. (2021) *Regional solutions: Regulating recruitment and protection of African migrant workers in the Gulf and the Middle East*. ECDPM.

Standing prospective migrant workers in good stead against the living and working conditions they will face abroad is a good practice that the governments of sending countries should adopt more broadly. Pre-departure orientation programmes can protect vulnerable migrants and enhance their safety and welfare, by providing them with critical information and skills to detect potentially abusive situations and act on or seek protection from them early on. Ethiopia, for example, carries out such programmes of pre-departure awareness, including information on welfare services and assistance to workers, conflict resolution and repatriation, as indicated in their Overseas Employment Proclamation¹¹⁷. Though the Government of Kenya has laid the foundations for PDO, it has not yet been standardized, and relevant pre-departure information is typically featured within broader pre-departure training programmes.

For instance, while the private sector has played an important role in the provision of pre-departure training, it is the Government, and in particular the National Employment Authority (NEA), established in 2016, who have taken a lead in designing and developing the curriculum. In 2018, with the support of IOM, the Kenyan NEA standardised the Homecare Management Course and published both the Syllabus and Regulations and a Trainers' Guide¹¹⁸.

In conjunction with the above, **post-arrival diplomatic and consular assistance can further safeguard the rights and freedoms of a country's labour migrant citizens abroad through the delivery of targeted, effective, and sound advice or through liaison** and taking of any other necessary action in case of migrants' violations. Labour attachés are tasked with a wide range of roles including, among others, providing legal recourse, counselling and grievance redressal, workplace monitoring, and the provision of shelter. Ethiopia, again, sets a good example through their Employment Exchange Services Proclamation¹¹⁹, wherein, among others, it provides for the placement of labour attaches in Ethiopian embassies abroad. **Some participant countries report having formed specialised committees**

and agencies, such as the employment and coordination committee in Nigeria, which oversee how labour migrants' agreements are implemented in receiving countries, document any challenges, and promote the social protection of the migrants abroad. Cameroon also reported having established a technical platform, which brings together the various departments and agencies that deal with migrant workers to assess the level of implementation of conventions related to the issue of migrant workers¹²⁰.

B1.3 Key non-governmental stakeholders in the implementation of labour rights and benefits

The implementation of labour rights is a collaborative effort among all involved stakeholders, including international organisations, governments (national, federal, and local), employers' and workers' organisations, various related NGOs and CSOs, as well as the civil society and other grassroots organisations at large, with the capacity to bridge the gap between high level policy and action implemented on the ground. The core aim of their synergy should be the promotion of fair and appropriate protections to migrant workers, their adequate access to rights, and their accruing benefits. As such, a complex system is formed and mobilised, consisting of various institutions and agencies at different levels, civil society, the private sector, international organisations, and multilateral and regional institutions, which enter discussions and consultations around the implementation of labour rights, on which their approaches are often contended.

To optimise their command on these issues, **governments must try to centralise and coordinate their operations on matters of labour migration across their different levels and among their various entities**. It is to those non-governmental actors that this study will now turn, with employers' and workers' organisations, and trade unions being among the core stakeholders in the implementation of economic equity, social justice, and workplace democracy within their respective industries in host countries. Special

¹¹⁷ ILO (2017) *The Ethiopian Overseas Employment Proclamation No. 923/2016: A comprehensive analysis*.

¹¹⁸ IOM (2018) *Ministry of Labour launches homecare management curriculum*.

¹¹⁹ Ethiopian Employment Exchange Services Proclamation (2016).

¹²⁰ This platform was established by Decree No. 022/CAB/PM of 22 February 2016, as reported in IOM (.2020) *Migration Governance Indicators: Republic of Cameroon Profile 2020*

labour-interest NGOs and CSOs participate in these processes as well, as they have the capacity to monitor governmental policies and actions and hold authorities accountable and act as intermediaries between migrants and the government. They also engage in advocacy, and offer alternative policies for government, the private sector, and other institutions. Their role in performing advocacy work on migration policy development has gained importance over the years. Most INGOs working on advocacy in this field work on one aspect of human mobility, such as trafficking in human beings or migrants' human rights. CSOs in this area primarily focus on certain aspect of migration advocacy and policy development, such as human rights of migrants or trafficking¹²¹.

Research material has indicated that **in several countries concerted efforts are being undertaken between multiple stakeholders towards the better implementation and regulation of labour rights and relations regarding migrant labour**. In Nigeria CSOs are carrying out migrant advocacy, while in Morocco the Anti-Racist Group for the Accompaniment and Defence of Foreigners and Migrants (GADEM) is making significant progress in advocating for- and documenting migrants' rights as well as engaging in their training and capacity building¹²². In Cameroon, migrants have created an association that makes pleas, and lobbies in case of rights' violations, while migrant groups in Yaoundé engage in communication facilitation between migrant communities and other stakeholders, including local authorities.

In Uganda, *The Ugandan Domestic Workers Union* has been at the forefront of fighting for the protection of women domestic migrant workers and pushing the government to employ more oversight on recruitment agencies and their operations in the countries of destination¹²³.

However, respondents from some countries were unaware of any migrant advocacy groups existing in their countries or in destination countries for their migrant worker citizens, while in the case of some others, like Zimbabwe, none, or hardly any labour rights advocacy

initiatives were reported. This underscores a key gap in labour migration discourse, and forms the basis for some of this study's key recommendations that will follow.

B1.5 Regulation of recruitment agencies

Recruitment agencies (Ras), both public and private (PRAs), play a key role in brokering migrant employment between employers and prospective employees by bridging the multiple gaps between the supply and demand sides of sending and receiving countries. Ras do not have the legal mandate to protect migrant workers in destination countries, therefore oftentimes the cycle of exploitation and abuse for migrant workers begins before migrants even leave their own countries, when they are, unbeknownst to them, engaged with predatory agencies. This takes place through misleading and overall erratic recruitment processes in countries of origin, with certain Ras even being implicated in forced labour and human trafficking schemes¹²⁴. This issue is even more pronounced in relation to certain destinations and employment sectors, such as domestic work in the Gulf countries¹²⁵, something that was even brought up by one of the interviewed participants, interestingly, in relation to the need to step up governmental protection efforts through consular services:

Kenyans in the Gulf states have faced some problems. There has been an outcry from migrants' relatives back home saying that the government hasn't been doing enough. The government says that they don't have enough manpower. Consular services there are meant to cater for the migrants. Think about the labour attaches in Saudi Arabia, for example. The number of migrants there

¹²¹ Thouez, C. (2003) *The role of civil society in shaping international migration policy*, *Fleishman Fellows Papers*. Sanford School of Public Policy, Duke University.

¹²² KII 4 Morocco - Moulay Ismael University

¹²³ IDWFED (2017) *Uganda: Ugandan Migrant Domestic Workers - Challenges and organizing successes*.

¹²⁴ UNODC (2015) *The role of recruitment fees and abusive and fraudulent recruitment practices of recruitment agencies in trafficking in persons*.

¹²⁵ Sabban, R. (2002) *United Arab Emirates: Migrant women in the United Arab Emirates. The case of female domestic workers*, *Series on Women and Migration*. 10. ILO.

are many and it's hard for the labour attaches to follow up on all the cases brought to their attention."

► **KIIREC1 Kenya – Business Africa/Federation of Kenyan Employers (FKE)**

As conditions of exploitation may be introduced as early as before a migrants' departure, it is important that sending countries take action to reduce the potential risks for their citizens that consider working abroad unaware of the possible risks. One way to achieve this is through the adequate and efficient regulation of the exploitative practices commonly implemented by RAs across the continent, a process that should be undertaken at all governance levels. Another way is through the IRIS standard on ethical recruitment, whose one principle is that labour recruiters must comply with all applicable legislation, regulations, multilateral and bilateral agreements on labour migration, and policies related to the recruitment of migrant workers in the jurisdictions of origin, transit and destination countries, including those pertaining to the immigration or emigration of migrant workers¹²⁶. At the level of international organisations, efforts to regulate the RA industry have been initiated with the help of organisations such as the ILO and its Private Employment Agencies Convention. No. 181, which has been signed by Algeria, Ethiopia, Morocco among the study's participating countries.

Most national governments are aware of these processes and have taken proactive action in implementing measures to regulate the operation of Pas. According to the ALMS 2021 results:

- 37 percent of surveyed African countries have recently implemented measures to combat recruitment malpractices.
- In 33 percent of countries, employers need to meet certain pre-set requirements.
- Few countries, however, impose penalties on recruitment malpractices — just 30 percent noted doing so.
- The ALMS 2021 results confirm the presence of informal recruiters in 50 percent of the countries.

Selected **countries have laws and policies specifically on the regulation of Ras in their domestic frameworks**, among which the following examples stand out: In Ethiopia, the recruitment of migrant workers is only allowed if BLAs exist with the country of destination, and recruitment is only done through governmental agencies, regulated through the Overseas Employment Proclamation. Moreover, through the Employment Exchange Services Proclamation, the operations of private employment agencies are overseen and regulated. In Egypt, Order No.98 of 1991 of the Ministry of Manpower and Training provides for Ras' licencing requirements and employment procedures. South Africa offers a robust framework for the regulation of private employment agencies, and Uganda has implemented Regulations Concerning the Recruitment of Ugandan Migrant Workers Abroad¹²⁷ that include provisions on Pas. Kenya and Morocco have instituted government agencies to assist prospective employees to find jobs abroad. **Ras in some countries have formed associations which serve to self-regulate and lead in discussions with governments.** In Kenya, for example, the Association of Skilled Migrant Agencies of Kenya (ASMAK) brings together private agents whose main aim is to secure jobs for as many Kenyans as possible. The agencies must be registered with the Kenyan National Employment Agency and pay an annual registration fee.

Despite the provision of Ras' employment services, and governmental efforts to regulate or undertake their activity through public institutions, however, **a large segment of prospective migrants still use unofficial means to facilitate their migration and seek employment**, which puts them at higher risk of abuse due to their illegal status. Results confirm that the informal sector remains the major source of employment across Africa, with 50 percent of countries reporting the presence of informal recruiters.

There are also **official government agencies which deal with immigration of prospective labour migrants at the interstate level, whether temporary or permanent.** Examples of programmes running by popular destination countries through which labour migrants can access labour markets bypassing the services

¹²⁶ IOM (2019) The IRIS Standard, version 1.2

¹²⁷ Regulations Concerning the Recruitment of Ugandan Migrant Workers Abroad (2005).

of recruitment agencies include the Federal Skilled Worker Programme in Canada, the Skilled Migration Programme in Australia, and the Highly Skilled Migrant Programme in the UK. Such programmes offer opportunities to destination countries to select migrants with employment profiles that are of high interest to them based on their needs, and safeguard migrants against abuse, exploitation, and de-skilling.

B1.6. Conclusion on cooperation

Cooperation between multiple stakeholders with vested interest is considered to be the optimal approach towards capacity building on labour migration governance. The list of actors involved in the processes this assessment focused on includes international organisations, governments (national, federal, and local), employers' and workers' organisations, various NGOs and CSOs, as well as the civil society and other grassroots organisations. These stakeholders engage in discussions and consultations in various configurations, and at different scales with the aim of upholding migrants' rights, and making migration safer for them, especially for the most vulnerable among them, including women, youth, and low-skilled or undocumented workers, who often fall victims of actors with asymmetrical power over their employment and overall life conditions.

Among those, the role of RECs in the modulation of labour migration frameworks has been especially pronounced, even if the level of implementation of their various components varies among Member-States. Their capacity, as actors at an intermediate level, to tap into local exigencies and link them with the priorities of neighbouring states is a major asset in making joint, even if slow, progress towards regional integration and coordination on labour migration standards and other areas of cooperation.

Several non-governmental actors are actively involved in the implementation of labour rights in a collaborative manner with governments and other actors, aiming to bridge the gap between policy and ground-level implementation and monitoring.

Together with receiving countries, sending

countries have an obligation to support their citizens working abroad at every step of their journey, through a broad range of leverage mechanisms available to them – from BLAs, combating exploitative recruitment practices, pre-departure orientation courses, post-arrival consular assistance programs, and even unilateral measures to fill gaps in social security coverage.

The scope and importance of these challenges makes the need for heightened regional cooperation in labour migration management apparent. Effective coordination and synergy among all relevant actors at the international, national, as well as subnational level must be at the heart of future strategies. At the same time, **national governments need to exhibit political will and be keen to learn from- and consolidate best practices to improve the security and safety of migrant workers and contribute to the socioeconomic development of sending and receiving societies.**

B2. Human rights and labour standards

The profile of migrant workers in Africa is diverse, and the challenges that migrants face evolve throughout the migration cycle. Three central challenges affect the rights of migrant workers: social protection, skills portability, and labour and health standards. This section seeks to answer a series of questions pertaining to the presence or absence of harmonised standards that may ensure labour migrants' access to- and exercise of their rights, and the implementation or enforcement of these international and regional/ bilateral agreements among the focus countries.

Given the complexity of the issue at hand, the following five guiding questions were formulated to guide this inquiry:

1. How have rights on paper been implemented in practice for labour migrants in destination countries?
2. Do migrants have equal access to services in destination countries? How does this differ on paper and in practice?
3. What provisions and gaps exist for the

- protection of migrant youth?
4. What are the pathways or existing mechanisms for migrant representation in destination countries?
 5. What are the practical challenges to accessing existing legal labour migration pathways for labour migrants?

Each of these questions is addressed in the upcoming segments through a synthesis of findings from the ALMS 2021, alongside insights from interviews conducted with key stakeholders in each focus country.

B2.1 Rights implementation and legal protection for labour migrants: Disparities between theory and practice

To reap the development benefits of labour migration, the governance of labour

migration's entire cycle needs to be rooted in international standards, and principles of human rights and social justice. All States analysed in this assessment are, in varying degrees of engagement, members of supranational legal instruments that address labour migration. These normative frameworks span the international and the continental, the regional and bilateral levels. Of primary importance among them are international human rights instruments, such as the standards drawn up by ILO (Conventions No. 97 and No. 143, and the two non-binding Recommendations, and the relevant UN framework (ICMW, ICCPR, ICESCR, CEDAW and the GCM). These standards constitute the overarching source of labour-related human rights which signatory States are expected to uphold and draw from in adjusting their national legal standards. They are meant to apply equally to all persons without discrimination on any grounds, including one's migration status, offering migrants the possibility of an ultimate

► **Table 5. ALMS 2021 Key results on Human Rights and Labour Standards**

Key results drawn from the ALMS 2021 responses	Related Graphs
There is willingness to adopt international legal frameworks in Africa, with several countries considering adhering to relevant Conventions and Protocols. Most countries of the AU have ratified, or are currently considering, a number of international legal frameworks. Most countries of the AU have ratified Conventions, Protocols and Charters relating to women, children, and human rights. Less popular protocols relate to the free movement of people, and migrant rights.	Table 1 Figure 1
Approximately 50 percent of respondents (≈18 countries) are considering ratifying the most important international Conventions and Protocols.	Table 1 Figures 2, 3
Two of the relevant international legal frameworks identified in our research are unpopular among African governments: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment. This is confirmed by the low number of countries reporting having them under consideration.	Table 1 Figure 3
Among the participating countries, only 50% and 28% are considering ratifying the above two Conventions, respectively.	Table 1
In terms of health requirements, the most common requirements are a general health check and a proof of vaccination — for 31 and 19 percent of respondents respectively.	Table 13 Figure 36, 37, 38
Very few countries, four, reported imposing any sort of quotas — whether based on migrants' skills, occupations, branches of economic activity, countries of origin, or the period of migration.	Table 10 Figure 28, 29, 30
Two challenges that labour migrants face when searching for employment are: having their skills recognised and being able to afford the costs of recruitment. Unfortunately, only 19 percent of countries reported having a system for skills' recognition. Although 30 percent of countries reported that costs of recruitment are imposed on employers, and only 19 percent report they are imposed on migrants, it is likely that the burden is always passed on to migrants.	Tables 14, 15 Figures 39, 42, 43

legal recourse in the absence of domestic frameworks.

Given the States' sovereignty prerogative, however, there are notable discrepancies between what the letter of international law states on labour-related issues and its national-level incorporation and, eventually, how their sum of their parts is interpreted and implemented in practice. While, in principle, labour laws are expected to serve as an instrument that promote worker empowerment and protection, and regulate individual and collective employment relations, some countries fare better than others on their adherence to these principles. Some of the most commonly occurring mechanisms reported by the countries participating in this research for the safeguarding of safe and fair working conditions harmonised with overarching international standards include the establishment of minimum employment age, standards of non-discrimination, prohibitions against sexual abuse, entitlement to rest days, and general health and occupational safety provisions.

This broad gap between the theorisation and implementation of migrant workers' rights is partly due to the relatively low rate of ratification and domestication of the international migrant workers' Conventions, paired with their subpar implementation and enforcement, and reporting on their application by States. This results in significant variations in the harmonisation and application of labour-related human rights instruments among, and within, States. An additional challenge in law's practical application is that those in charge of its implementation often tend to rely more on local customary law to interpret the letter of conventional legislation. A broad range of issues pertaining to migrant workers' overarching civil, political, economic, and social rights are, therefore, not being uniformly addressed at the national level.

These divergences are made apparent through the results of both the qualitative and quantitative aspects of this study, as well as by the legal review. In practice, therefore, despite the wealth of relevant legal frameworks available

on the subject of labour migration and the rights and obligations accruing from it, **disparities are apparent between the prescribed rights of migrants under international law, and their everyday reality in the countries where they live, work or travel through.** The vulnerability of migrants in terms of dignity and human rights is further underscored in the case of low-skilled workers, and those further disenfranchised among them, such as women, youth, and irregular migrants, who cannot access nor enjoy many of the rights stipulated in international law, and are left multiply exposed to rights' infringement, injustice, and exploitation.

B.2.2 Service access equality for labour migrants in destination countries

According to international law, States have an obligation to ensure that everyone, including migrants - irrespective of their migration status - can exercise their human rights through safe and equal access to basic services, such as social protection systems (social insurance and assistance, universal benefits etc.), and access to healthcare, financial services, education, and justice. Moreover, States have been urged to commit to strengthening migrant-inclusive service delivery systems and ensuring that any differential treatment must be based on law, be proportionate, and pursue a legitimate aim, in accordance with international human rights law. Variations of these principles are reflected in the agreements States have entered at various levels of international cooperation. Social security is a human right but while the human rights of all migrant workers should be promoted and protected, regardless of their status (UDHR, ICESCR, ICRMW) some of these Conventions and Recommendations (e.g. C143, ICRMW) draw a distinction within the spectrum of rights guaranteed to migrant workers, depending on whether they are in a regular or irregular situation¹²⁸.

All participating States have incorporated international law standards into their domestic frameworks and grounded their national legal provisions on them - to a different degree, and with a variable scope of protection in each case. Some countries

¹²⁸ For more info on migrant workers' right to social security and the international legal framework please see: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_826684.pdf

have strived to harmonise migrant workers' overall access to social services and improve their effectiveness and coverage in alignment with the guiding principles and objectives of international frameworks. As the data suggest, most countries in Africa — above 50 percent — report that all workers are entitled to a broad set of labour protection rights. Both migrants and national workers in the formal economy are entitled, for example, to bargain collectively, protection against forced labour, and minimum wage guarantees. Despite those countries' efforts, however, the overall state of practices among most African countries falls short in the harmonisation of their national policies and administrative arrangements with human rights-centred mandates for migrants' inclusive and equitable access to basic services vis-à-vis citizens.

Migrants are often excluded from the existing legislation, while for some States the fulfilment of these obligations towards individual migrants is often conditional to the 'reciprocal treatment' that their own nationals enjoy within the territory of migrants' respective home countries.

Despite improvements, and proclamations of good intentions by the authorities, the reality remains that **migrant workers' access to social services and protection systems, and their ability to seek remedy for violations of labour, employment and social rights is limited.** Lack of technical and financial capacity to effectively plan and implement remediation measures often emerges as grounds for the notable disparities in service inclusion, as well as limitations on migrants' awareness of available services' existence, and the terms and conditions of their access to them. Special consideration must be given to addressing the multiple barriers that migrant workers, and their families, face in accessing services at all stages of their migration cycle. The exceptionally vulnerable position of irregular migrants merits special attention, as despite their prescribed entitlement to equal access to various services, most notably healthcare as a universal basic right for all, in practice they lack any entitlement to them.

Since 2003, **the health-related aspects of labour migration have generated more attention during the global pandemic**, with three specific gaps are identified by academic scholarship in this regard: a paucity of data on migrant workers' health, the health impact of labour migration on the family and the relations of migrants left behind in the country of origin, and the host country population, and finally, the extent to which policies consider the health of migrant workers¹²⁹. **Health testing or health certificates are becoming common features in bilateral labour migration agreements¹³⁰, and pose challenges in terms of costs and access to legal migration pathways.¹³¹** Although WHO does not recommend obligatory screening for diseases of migrant populations, it recommends health checks and access to health care for all migrants in need of health protection.¹³²

The IOM highlights additional **concerns with regard to the health of labour migrants (and their families)** throughout the migration cycle, as they are exposed to increased health risks and vulnerabilities – during their travel, and at their destination, mainly due to the exploitative and substandard living and working conditions. From its part, the ILO has highlighted a range of social, political, and economic factors linked to migration which may increase labour migrants' – in particular domestic workers' – risk of HIV infection¹³³, and has explicitly highlighted the need to respect migrant workers' health privacy in the HIV/AIDS recommendation of 2010.¹³⁴

Women migrants face specific challenges, particularly in maternal, new-born and child health; their sexual and reproductive health, and healthcare required due to their subjection to violence. Furthermore, women's increased exposure to challenging working environments increases their vulnerability to Non-Communicable Diseases (NCDs). It has also been noted that women migrant workers may face discrimination based on health requirements, including mandatory pregnancy test and coercive abortion or lack of access to safe reproductive health services. There is a need to ensure continuous access to healthcare for all categories of migrants.

¹²⁹ Norredam, M. and Agyemang, C. (2019) 'Tackling the health challenges of international migrant workers', *The Lancet Global Health*, 7(7), pp. e813–e814.

¹³⁰ IOM (no date) *Health of labour migrants*. <https://www.iom.int/health-labour-migrants>.

¹³¹ IOM (2019) 'Bilateral labour migration agreements in African Union Member States: Taking stock and the way forward'.

¹³² WHO (no date) *Migration and health*. <https://www.euro.who.int/en/health-topics/health-determinants/migration-and-health>

¹³³ Torriente, A. (2016) *Migrant domestic workers, health and HIV*, ILO.

¹³⁴ ILO (2010) 'HIV and AIDS Recommendation (No 200)'.

Yet, despite all this, migrant workers might not have access to health care, or be provided health insurance coverage¹³⁵. Moreover, irregular labour migrants, or those without formal contracts may not only not have access to health care but may be unaware of laws and requirements related to their health.

Measures introduced by governments to control the recent spread of COVID-19 greatly impacted mobility and migration and linked them emphatically with health-related concerns. Reviewing related past decision-making at the time of this report's writing revealed the intertwining of labour mobility regulations and public health emergencies, as COVID-19 vaccination or negative certificates had become a mandatory entry requirement for many countries during the height of the outbreaks, labour migration was halted in other countries, whereas refugee resettlement was temporarily suspended by IOM and UNHCR due to health concerns, although the status of these decisions is being continuously reassessed by relevant stakeholders based on the pandemic's progression. Other angles from which COVID-19 has cast light on the interrelationship of health and labour migration, and the resulting global disparities pertain to **the migration of those characterised as 'essential workers', most notably health workers.** As the pandemic surged, a global shortage of health professionals in developed countries functioned as a pull factor that steeply increased the already pronounced out-migration of health workers from the developing world, creating a vast brain-drain of medical professionals, and leading to their critical shortage in tackling the pandemic within their countries of origin.¹³⁶

B.2.3 Provision of rights and gaps in the protection of migrant youth

Migration offers many youth opportunities for education, employment, skills acquisition, personal growth, and empowerment that might have been unavailable in their country of origin. As current research on the topic notes¹³⁷, positive migration experience during

this age period could set young migrants on a successful path toward capitalising on their accomplishments and developing economic and social assets for their future but can prove equally detrimental under unfavourable conditions. **Migrant youth and children are considered a particularly vulnerable segment of the migrant population and are afforded special protections by international human rights law.** Particularly those in lower skilled, unskilled and/or irregular situations face increased risks of abuse, exploitation, discrimination, exclusion, and unemployment in many countries. Another challenge commonly faced by young migrant workers is related to the nonrecognition of training credentials, which results in their "de-skilling", whereby they are only able to obtain jobs beneath their qualifications. Further indicative of the youth migration trend, and its linkage to disadvantaged livelihoods is the fact that among the 38.1 per cent estimated total working poor in sub-Saharan Africa, young people account for 23.5 per cent. Moreover, young girls tend to be more disadvantaged in accessing work and experience worse working conditions than male youths, and they find employment in the informal sector¹³⁸.

Currently more than ten percent of the world's migrant population is constituted by young people aged 15 to 24. To those, the significant but difficult to estimate number of child migrants travelling and often working under various regimes of mobility should be added. Despite their substantial numbers, however, no international, continental, or regional legislative framework currently addresses child and youth migrants directly, even more so with respect to their labour-related rights. Pertinent standards in their case include the protective measures contained within the Convention of the Rights of the Child, the ILO Conventions on child labour¹³⁹, the UN Protocol on Trafficking, and various regional instruments in addition to the ICCPR and ICESCR.

Among their catalogue of rights, certain provisions on labour-related issues are included, such as the minimum age of admission to

¹³⁵ IOM (2020) *COVID-19 and the risk of exacerbating existing vulnerabilities*.

¹³⁶ IOM (2018) *Labour migration and health*. <https://www.iom.int/labour-migration-health>

¹³⁷ Samuel Hall/KNOMAD (forthcoming) 'Youth, migration and development. A new lens for critical times'

¹³⁸ ILO (2012) *Youth employment in Africa*. <https://www.ilo.org/africa/areas-of-work/youth-employment/lang-en/index.htm>

¹³⁹ Those refer to ILO Convention 138 (Minimum Age Convention, 1973); ILO Convention 182 (Worst Forms of Child Labour Convention, 1999), and ILO Recommendation 190 (Worst Forms of Child Labour Recommendation, 1999).

employment, appropriate working conditions, protections against exploitation, their general and occupational health, and overall development. At the continental level, the AU encourages its Member States to facilitate the exchange of young workers among themselves, but no clear information exists on if and under what conditions this happens.

In alignment with the above stipulations, **most selected countries have included some explicitly set provisions for young migrant workers to protect them from potentially exploitative or abusive situations**, which they have higher chances of facing due to the inherent insecurities, risks and dangers at the interface between young age/childhood, migration and employment relations. The Labour Code of Côte d'Ivoire, for example, includes special provisions for young persons, as do laws in Ethiopia, Nigeria, Sudan and Zimbabwe, among other countries. Yet, despite the almost universal ratification of fundamental legal standards, such as the Convention on the Rights of the Child, migrant youth remain victims of a wide range of gaps in their protection and constraints to their civil, political, economic, social, and cultural rights.

With the exception of victims of trafficking and refugee minors, the lives of other categories of migrant adolescents are often misunderstood and under-researched – if not entirely rendered invisible. This has direct consequences on policy making and practice related to their protection. Greater emphasis should be placed on ensuring that the laws and policies effectuated at each governance level embrace the lived realities of all migrant youth and cater to the protection of their rights and the minimisation of migration's negative consequences for them. It is also imperative to address related shortcomings, primarily those linked to migration control policies, and the lack of targeted national legal and institutional frameworks that can intercept and remediate the distinctive challenges that migrant youth, and young migrant workers face. Such initiatives include awareness campaigns and information dissemination on youth rights, as well as legal counsel and information on the laws and customs of destination countries.

B.2.4 Pathways and mechanisms for migrant representation in destination countries

In the context of this report, **representation refers to stepping in on behalf of migrants to ensure migrants' rights are upheld as envisioned in international and bilateral agreements.** Labour migrants' representation is deemed essential for this overall wellbeing since they are multiply vulnerable to various forms of abuse and exploitation. Some of the main pathways of representation and rights' advocacy for migrant workers of immigrant origin in destination countries include: a) the possibility of their **political representation**; b) their collective **representation on labour-related matters through trade unions and processes of collective bargaining**, and c) **advocacy frameworks**, such as those undertaken by recruitment agents and the labour attachés of their home countries' **diplomatic** missions in their destination countries, and services provided by NGOs and CSOs. The mechanisms of achieving migrant representation through these pathways are highly fragmented across African States, however, with each country applying different sets of guidelines on the exercise of political and labour-related representation rights according to their national laws and international obligations.

Political rights, related to an individual's ability to participate in the civil and political life of the society and state they reside in without fear of discrimination or repression, are typically closely **attached to one's citizenship status.** As such, migrants' access to these rights and, subsequently, **this type of representation is extremely restricted** across African States.

Provisions regarding migrant workers' access to- and representation by trade unions exist both within international law that aims to ensure that states accord equal treatment to migrants as to their nationals, and within most countries' domestic frameworks. Considerable variations exist, however, in their content and degree of accessibility among them. In a landscape characterised by the previously described challenges related to

labour markets' fragmentation, weakened frameworks for human- and labour rights' implementation in practice, and reduced protections provided to migrant workers, the complicated, if at all available in certain national contexts, migrants' access and participation in trade unions and processes of collective bargaining opens the door for their targeting by exploitative employment practices. It is particularly important to establish adequate and accessible representation frameworks for women, and persons without regular status, who often fall victims of exploitation and abuse, as will be indicated in the upcoming sections. To protect them against vulnerabilities, countries can implement hearing procedures for claims against expulsion, and to allow victims of trafficking to remain in the country — 30 percent and 43 percent of countries reported doing so respectively¹⁴⁰.

Lastly, **countries of origin have an obligation to protect their nationals in destination countries**, as delineated above. Embassies are key points of reference for nationals in foreign countries in need of assistance¹⁴¹. Some African States, however, lack diplomatic presence in other African countries, which bears direct consequences on their citizens who are employed in the receiving country in obtaining redress and support. To strengthen the protective mechanisms targeted towards migrant workers and safeguard the rights of their citizens. It is therefore important for African States to maintain and competently staff diplomatic missions in other countries hosting large numbers of their employment-seeking nationals, and task their diplomatic representatives with advocating for their protection, while also actively pursuing the adoption and strengthening of strategic bilateral agreements with States identified as key migrant destinations. As our results indicate, going beyond consular officials, many African countries increasingly rely on labour attachés to protect their migrant workforce — 26 percent of respondent countries report having labour attachés¹⁴². However, maintaining adequate and

appropriately trained personnel to answer the needs of the ever-increasing number of migrant workers that find themselves in exploitative circumstances remains a challenge, as one respondent mentions:

How capable are we in going to another country and protecting the rights of our citizens? For instance, about 40,000 people returned from Saudi Arabia just recently and how capable is our embassy there or the capacity of the attachés there if there are any? I'm not even sure if there are attachés there. Engaging an attaché is one thing but protection is all about state capacity. Are we in a position to negotiate? For me the gap is still the capacity to implement and execute policies.

► **KII1 Ethiopia – Ministry of Labour and Social Affairs (MoLSA)**

If barriers to representation and official protection exist for lawfully present and employed migrant workers, those provisions are as a rule, completely inaccessible to irregular migrants who remain multiply exposed to exploitation and discrimination.

B.2.5 Practical challenges in accessing existing legal labour migration pathways

Despite rights and guarantees afforded to migrants through international human rights

¹⁴⁰ As indicated in Table 18, and Figures 49, 50 and 51 in the Annex 4.

¹⁴¹ IOM/MRP (2021) *The role of consular staff in protecting the rights of migrant workers in crisis situations*.

¹⁴² See also Table 18, and Figure 50 in Annex 4.

norms and labour standards, in reality, due to legal, procedural, linguistic barriers and other restrictions, migrants often face difficulties in obtaining legal access to a destination country's labour market. As the preceding legal analysis has indicated, regular entry routes to several African countries, and to their labour markets, can be severely impeded for migrant workers, even more so those deemed low-skilled. This further restricts the availability of secure and relatively solid pathways for migrants' access to rights, including labour-related ones.

Most of the challenges faced by migrants in accessing legal labour migration pathways pertain to the **fragmentation, inconsistency, and incoherence of legal and policymaking frameworks around migration and labour-related issues, across governance scales.** Research material suggests that if the regulatory framework for migration is taken as an example, we can observe that it is usually diffused into parts of their constitution, labour law, employment law, criminal law, anti-trafficking law, social security, and human rights law. In addition to that, the high degree of administrative and institutional obscurity and lack of transparency further complicate, and often mislead, migrant's decision-making processes on migration and labour-related issues.

Moreover, **different groups of migrant workers face discrimination and inequality in treatment that corresponds to a model of 'hierarchy of deservingness' of rights and freedoms** among migrants, based on several grounds, such as their nationality, educational attainment, age, and sex, among others. Additionally, the misinterpretation of social characteristics, temporalities and motives behind people's mobility, often leads to notable mismatches between law, policymaking and practice that can result in substandard living and working conditions, as well as the potential infringements of migrants' human rights. But even in cases when migrants might secure lawful employment and stay, the structural and legal instability around these issues may eventually push migrants back into precarity, insecurity, and often illegality despite their will.

Preferentialism and unfair competition between different groups of migrant workers

can also lead to the exclusion of some from regular channels of employment in favour of others. As our results indicate, higher educational attainment and migrating from BLA partner countries can be a source of preferential treatment in some national contexts. However, very few countries do report the existence of such preferential treatment officially. Similarly, occupational mobility restrictions can negatively affect the efficiency and inclusivity of labour markets.

Luckily, very few countries impose any type of occupational mobility restrictions, and even when they do, this usually requires relevant authorities' approval.

Certain countries have pioneered, however, in implementing integrated policy frameworks to facilitate the transition of irregular workers back into the formal economy — 46 percent; and 50 percent of the focus countries that were included in the study's legal analysis have similar provisions. Regarding the regularisation of migrant workers, few countries report having used special programmes, and even fewer have similar schemes in place for temporary (seasonal) migrant work. Regularization after arrival appears to also be complicated — only 35 percent of countries report allowing for it¹⁴³. Results confirm that the informal sector remains the major source of employment across Africa, with 50 percent of countries reporting the operation of informal recruiters¹⁴⁴. It is, therefore, crucial that AU countries **address these challenges to legal labour migration and set as a priority the development of fair and transparent frameworks for legal pathways to their domestic labour markets in accordance with international, continental, regional and bilateral standards, and human rights principles.**

B2.6. Conclusion on human rights and labour standards

This section set out to explore the **gap between the theory and application of human rights and labour standards in practice.** It inquired on their degree of accessibility, and the protections and means of representation they afford to different groups of vulnerable migrants, as well as on the

impediments to securing and maintaining lawful stay and employment in a host country.

Despite the extensive volume of legal standards on labour and migration, and the several rights and obligations accruing from them, there are glaring disparities between the prescribed rights of migrants under international law and their everyday lived reality in the countries where they live, work or travel through.

Migrant workers' access to social services and protection systems, and their ability to seek remedy for violations of labour, employment and social rights is also found to be limited. States' administrative or financial incapacity and lack of technical and other means to that would allow effective planning and implementation of remediation measures is often presented as a reason for the notable disparities in the inclusion of migrants to service provisions, as well as for the limited awareness that migrant workers have about existing services how to access them. Mechanisms of migrant representation were found to be highly fragmented across African States, with each country applying different sets of guidelines on the exercise of political and labour-related representation rights of foreign citizens according to their national laws and international obligations.

Special consideration must also be given to the fact that although the above provisions are accessible to a greater or lesser extent to lawful migrants, **undocumented persons, youth, women, and low-skilled labourers are consistently relegated into further vulnerability regarding their dignity and access to human rights** since, as a rule, they are not able to access nor enjoy many of the rights stipulated in international law. They are thus left multiply exposed to rights' infringement, injustice and exploitation.

Greater emphasis should therefore be placed on ensuring that the laws and policies effectuated at each governance level embrace the lived realities of all migrants: those in irregular situations, all youth, women, and other groups affected by intersectional disadvantage, and that they protect everyone's rights and aspire

to minimise migration's negative impact for all. It is, therefore, imperative that African countries address these practical challenges to legal labour migration and set as an immediate priority the development of fair and transparent frameworks facilitating legal pathways to their domestic labour markets in accordance with the stipulations of international, continental, regional and bilateral standards and human rights principles.

B3. Gender and empowerment

While statistics on labour migration remain a challenge across the board – including the disaggregation of statistics by gender – research over the past few years shows that **women are increasingly present in migration flows, with the number of African migrant women increasing by 93% between 2008 and 2017**, with many among those women on the move working in the informal sector.¹⁴⁵ This rise in women's labour migration globally (even when undocumented or informal) is referred to as the 'feminisation of migration'^{146,147} and brings with it **the need to consider specific contributions and needs that this development may bring.** This can be examined through **three key elements: sectors where women labour migrants are employed, destinations of women labour migrants (intra-Africa vs external), and the gender specific contributions and needs of labour migrants.**

Women's employment opportunities are shaped by the conditions of global restructuring of the economy and the labour market, which have led to the proliferation of female-dominated services and professions, including domestic work, nurses, teachers and other professions typically dominated by women; the **rising unemployment among men**, which forces women to assume the role of income providers for their families, and the rise in urban employment opportunities following the decline of rural work and urban centers rise in offering opportunities for gainful employment. The **changing gender norms/assumptions** under the effects of internationalisation, and of global travel and communication have also led to the gradual expansion of socially acceptable female-appropriate professions. Additional push

¹⁴³ See also Tables 18 and 15, and Figures: 49, 50, and 51 in Annex 4.

¹⁴⁴ See also Table 14, and Figures 39, 40, and 41 in Annex 4.

¹⁴⁵ ILO (2020) *Women migrant workers' labour market situation in West Africa*.

¹⁴⁶ Masanja, George F. (2012) 'The female face of migration in Sub-Saharan Africa.', *Huria: Journal of the Open University of Tanzania*, (11), pp. 80-97.

¹⁴⁷ Caritas Internationalis (no date) *The female face of migration. Background paper*.

factors for women's migration include: gender stereotyping and gender-based discrimination and violence in their countries and communities of origin, which further disadvantage them in accessing economic opportunities locally; limitations in accessing land to work on and live from; and barriers to education and vocational training.

Despite the increasing feminisation of migration in Africa, however, gender inequalities faced by women in the labour market persist. Indicative of that is the fact that although African migrant women outnumber men across the continent, they are still reported as having far lower rates of secure employment¹⁴⁸. The pronounced limitations on the autonomy of women migrants regarding their choice of employment is an important parameter of this disparity, among several others. A growing literature on women's labour migration discusses the conditions under which they migrate, live and work, and the professions in which they are typically employed, which are usually restricted within gender selective sectors related to services and the care industry within urban settings. Moreover, women are also forced to accept work that would typically be considered unacceptable by men, or on the contrary, they get excluded from certain sectors traditionally viewed as men's work.

The above-mentioned factors, combined with the precarious and unequal working conditions migrant women often face in their workplaces, which make them particularly vulnerable to intersecting forms of exploitation and gender based discrimination and violence, have contributed to the **tendency to view women merely as victims of migration, as** Crawley (2001)¹⁴⁹ has pointed out.

As a result, migrant women are typically portrayed as having little or no agency throughout their migration process, and their experiences as migrants have been constructed around 'those left behind', or 'those taken advantage of', rather than as voluntary migrants with any say on their purpose and fate.

Without denying that for a great part of women generally, and women migrant workers in particular, these disadvantages hold painfully true, it also needs to be noted that **women nowadays are more than ever before migrating as a means of meeting their own economic needs** rather than to join a husband and family abroad¹⁵⁰.

As such they become important contributors to the economic development of their host and home communities, and the society at large¹⁵¹. Studies show that women are increasingly rising to be agents of change, and active participants in voluntary migration regionally, for example across West Africa¹⁵².

This section **expands on the growing literature on women migrant workers that discusses the conditions under which they migrate, live and work, as well as their rights, and the protections afforded to them by different levels of governance and policymaking against their exclusion and exploitation at different stages of their migration.** This is done through an inquiry into the legal and policy frameworks permeating and shaping these processes guided by the following sub questions:

1. What are the characteristics of women's labour migration in Africa?
2. What measures exist within legal and policy frameworks (migration related or otherwise) to support the gender specific needs of migrants?
3. How do legal and policy frameworks provide for the principle of gender equality and prohibition of gender discrimination? How do they include special measures of assistance and support to specific groups of migrants?
4. What mechanisms are in place in support of women migrant workers?

¹⁴⁸ AU (2020) *Report on Labour Migration Statistics Migration Statistics*.

¹⁴⁹ Crawley, H. (2001) *Refugees and gender: Law and process*. Bristol: Jordans.

¹⁵⁰ Adepaju, A. (2003) 'Migration in West Africa', *Development*, 46(3), pp. 37–41.

¹⁵¹ Donato, K. M. and Gabaccia, D. (2016) *The global feminization of migration: Past, present, and future*, *Migration Information Source*.

¹⁵² Awumbila, M. (2015) 'Women moving within borders: Gender and internal migration dynamics in Ghana', *Ghana Journal of Geography*, 7(2), pp. 132–145.

B3.1 Characteristics of women's labour migration in Africa

Intra-African women's migration has been a persistent and ever-increasing feature across the continent, with approximately 80 percent taking place within Africa¹⁵³, and a secondary stream oriented towards the Middle East and GCC countries, partly due to the restrictive migration measures that have limited migration opportunities towards Europe.

African women's labour migration, however, has been under-researched, even more so at the intersection of gender, immigration, and labour policies. This knowledge gap has implications for the drafting and adaptation of special rights and protections necessitated by the conditions women migrant workers face.

As a background for the analysis that follows, a brief exposition of the main characteristics of women's labour-related migration in Africa is necessary with regard to the major destinations and sectors of employment, and the main challenges women workers face, such as degree of informality and precariousness of their employment – obstacles that get even more pronounced in the case of migrant women workers.

Within the diverse migration dynamics in Africa, much of the women's labour-related cross-border mobility is confined within regional limits, with urban centers attracting women from rural settings, and certain countries or regions being preferred destination hubs due to their high employment opportunities within favourable legal and economic settings. Regional and bilateral migration protocols facilitate women's legal short-distance movement, work, and residence, which is also often characterised by stepwise patterns of mobility, by way of intermediate steps, from a traditional-rural environment to the modern-urban environment¹⁵⁴. Recent fieldwork conducted by Samuel Hall¹⁵⁵ in the Dessie area of Ethiopia, highlighted the rural urban migration dynamics of women's stepwise labour mobility, as women were found to first move for work in textile factories in the area (work that male migrants

refused to do), before moving on in some cases to Gulf countries.

African women are located at the lower end of the occupational hierarchy in both formal and informal labour markets¹⁵⁶, and are predominantly engaged within the informal sector¹⁵⁷, often undertaking multiple types of activity simultaneously to make ends meet¹⁵⁸.

Women's primary sectors of employment include female-intensive, unregulated, low-skilled, and low-income "female coded" jobs, such as domestic work, care work (including health, child, and elder care), (cross border) trade, industry (particularly in textiles), services, sex work, and working in the agricultural sector¹⁵⁹. These are typically jobs of lower status, quality, and pay than other types of job considered "male-appropriate", and tend to be badly- or completely non-regulated, which further exposes women to conditions of exploitation. Three categories of work among the aforementioned highlight the potential vulnerabilities that women labour migrants face within the sectors of their typical employment: domestic and care work, industry and manufacturing, and sex work.¹⁶⁰ The increased migration of East African women to Gulf or Middle Eastern countries for domestic work is raised as a point of particular concern, as it exemplifies these overlapping conditions of vulnerability and exploitation. The reasons for that are that women often find themselves tied (legally or not) to a kafala system where employers have a disproportionate amount of control over their employees' life, including confiscation of passports and other crucial documents. This can lead to labour exploitation as well as abuse and isolation of the women migrant workers in these national contexts¹⁶¹.

Securing livelihoods for themselves and their families within the unfavourable circumstances that commonly characterise these sectors is a longstanding challenge for migrant women. Moreover, these setbacks are becoming increasingly pronounced through the local effects of global processes pushing for the growth of the informal economy and of informal, casual,

¹⁵³ AU (2013) 'Youth and Women Employment Pact for Africa'.

¹⁵⁴ Conway, Dennis (1980) 'Step-wise migration: Toward a clarification of the mechanism', *International Migration Review*, 14(1), pp. 3-14.

¹⁵⁵ Based on fieldwork conducted under the MIGNEX project in Kombolcha, Ethiopia from June 14th - June 20th 2021".

¹⁵⁶ Tsikata, D. (2009). Gender, land and labour relations and livelihoods in sub-Saharan Africa in the era of economic liberalisation: Towards a research agenda. *Feminist Africa*, 12(2), 11-30.

¹⁵⁷ ILO (2020) *Women migrant workers' labour market situation in West Africa*.

¹⁵⁸ Charmes, J. (2005) 'Femmes africaines, activités économiques et travail: de l'invisibilité à la reconnaissance', *Revue Tiers Monde*, 182(2), p. 255.

¹⁵⁹ Human Rights Watch (2016) *"I was sold": Abuse and exploitation of migrant domestic workers in Oman*

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

and poorly paid work, as well as the increase of labour insecurities and poor livelihood outcomes for vulnerable populations in Africa. Women migrant workers are in a particularly precarious position as a result of the permutations of their gender, identities, social relations, and overall life situations.

They face several challenges including, access to healthcare, social security, physical abuse, various forms of labour exploitation, gender-based discrimination and stereotyping, unequal working conditions, and the risks of being trafficked, among others¹⁶².

An indicative example of this labour exploitation as well as abuse and isolation of women migrant workers is reflected in the migration of East African women to Gulf or Middle Eastern countries for domestic work, and who find themselves tied to a kafala system, where employers have a disproportionate amount of control over their employees' life, including confiscation of passports and other crucial documents¹⁶³. **Sex work is another context within which women migrants are faced with particularly adverse forms of abuse as they may face stronger discrimination, are more vulnerable to mistreatment, and can experience intersecting forms of discrimination as migrants and as women compared to male migrants.** Migrant women and girls may end up inadvertently involved in sex work and remain trapped in it indefinitely. Several respondents touched upon those issues during their interviews, and noted the particular vulnerability of domestic workers, deemed as the most vulnerable group of all low-skilled migrants. Many cases of sexual and physical abuse of women migrant workers who emigrate to other countries were mentioned, with particular focus on those that migrate to the Gulf countries. Interviewees often juxtaposed the situation of low-skilled labour migrants with that of high-skilled migrant workers to indicate that bargaining power was a multi-parameter issue and was the main determinant of one's level of vulnerability.

Women migrant workers' pronounced precarity was also thrust into focus during the COVID-19 pandemic, which had a greater effect on migrants' versus non-migrants' unemployment and, additionally, impacted women disproportionately through not just the loss of their employment and income, but also through their elevated viral exposure due to their care work duties, their reduced access to healthcare, and their increased subjection to the pandemic-related surge in sexual and gender based violence which recorded an alarming increase during COVID-19 pandemic^{164,165}. Policies aimed at addressing these challenges should, therefore, be formulated and implemented urgently to reaffirm women's rights and safeguard the materialisation of their statutory protections in practice.

It is therefore imperative that the wildly different realities faced by women migrants in their search for employment are taken into consideration both in research and policymaking at all levels, and they are systematically addressed so that gender parity and empowerment may be achieved¹⁶⁶.

B3.2. Gender responsive legal and policy frameworks in labour migration governance

Taking into consideration **intersectional approaches to migration policy frameworks** is particularly important, as **it is not only a person's gender, but also gender's interplay with one's age, religion, race, ethnicity, sexuality and health or disability** that shape every stage of their migration experience (and, indeed, life course)¹⁶⁷, and necessitate different sets of rights and freedoms. Gender-sensitive approaches to the governance of labour migration exist within international law, as well as throughout the continuum of continental, regional and national legal frameworks, yet they need to be further mobilised and mainstreamed.

Fundamental international and continental/regional standards relevant to women migrant workers across Africa include, among others: ILO's Migration for Employment Convention

¹⁶² KII 1 Cameroon - External Relations Ministry.

¹⁶³ *ibid*

¹⁶⁴ Mittal, Shalini and Singh, Tushar (2020) 'Gender-based violence during COVID-19 pandemic: A mini-review', *Frontiers in Global Women's Health*, 1, pp. 1-7.

¹⁶⁵ Oxfam (2021) *The ignored pandemic: The dual crises of gender-based violence and COVID-19*.

¹⁶⁶ SOLIDAR (no date) *Women and migration: vulnerability in the face of abuse and discrimination*, 2019.

¹⁶⁷ Birchall, J. (2016) *Gender, age and migration: An extended briefing*. Institute for Development Studies (IDS).

(Revised), 1949 (No. 97); ILO's Equal Remuneration Convention, 1951 (No. 100), ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111); ILO's Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); ILO's Convention on the Elimination of all Forms of Discrimination against Women, 1979; ILO's Convention on Ending Violence and Harassment in the World of Work, 2019 (No. 190); ILO's Domestic Workers Convention, 2011 (No. 189); The UN Convention on the UN Convention on the Elimination of All Forms of Discrimination against Women, 1979; The UN International Covenant on Civil and Political Rights, 1966; the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990; the African Charter on Human and Peoples Rights, 1981; The Treaty establishing the African Economic Community, 1991; The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003; the Migration Policy Framework for Africa and Plan of Action (2018-2030), and the AU Strategy for Gender Equality & Women's Empowerment(2018-2028).

States have signed and incorporated different combinations of the above standards, which give shape and direction to the development of their respective domestic frameworks relating to migration and labour relations, and the degree of their gender responsiveness. All countries participating in this research enumerate in their national laws at least some special provisions relating to women and/or migrants and work that will be further detailed in the following section, with some of them adopting more progressive and inclusive approaches than others. Our results indicate that more than 33 percent among the participating countries report having systems for equal pay, no discrimination, and gender-enhancing equality¹⁶⁸.

Although the causes for gender inequality and discrimination against women are numerous, and the existing frameworks offer a satisfactory base for the elucidation of women's fundamental, as well as labour-related rights, **the realities faced by women and other vulnerable workers in their everyday lives necessitates taking several**

extra steps, such as a) the improvement of coordination between different actors, b) the strengthening of policy coherence and c) the promotion of gender-responsiveness and sensitivity in the governance of labour migration. Since many African countries have opted out of several core international standards providing gender sensitive frameworks, it is important to further promote the ratification and implementation of those treaties across Africa to achieve greater gender mainstreaming and women's empowerment in migration on the continent.

B3.3. Special provisions on gender equality and non-discrimination

As already mentioned, **the degree to which African states participating in this study have conformed to the gender-related standards set by international law, incorporated them into their domestic frameworks, and applied them in practice for the rights protection of migrant women differs widely** and it is complicated to capture in its full spectrum. The aggregated range of available national provisions across the fourteen participating countries according to our legal analysis refers to issues of: gender equity in the job market and all forms of economic and social development, women's employment conditions, work hours, prohibition from hazardous occupations, provisions on pregnancy, postnatal period and different lengths of maternity leave – particularly around issues related to job termination and benefit levels

Pioneering good practices among them, despite the non-ratification of the AU Protocol on the Rights of Women and the exclusion of domestic workers from the Labour Code, are related to the gender-sensitive perspectives encompassed in Egypt's provisions, which, among a list of other more commonly referred-to rights, specifies women's right to nursing breaks and employers' obligation to establish nurseries in case they employ more than 100 women.

Another notable best practice pertains to Kenya's provision of various forms of parental leave,

¹⁶⁸ See Table 24, and Figures 61,62, 63 in Annex 4.

including 'pre adoptive leave' for employees under whose continuous care and control a child has been placed, in accordance with the provisions of the Kenyan Children's Act. Somalia's domestic law also offers extensive coverage of women's working rights in several domains including maternity. Zimbabwe is another example of a country which have mainstreamed gender into their Zimbabwean labour statutes and national frameworks. **On the antipode, there is a very small number of countries that have not ratified any instruments on women's rights, while neither their prevalent cultural nor legal norms are conducive to women's emancipation or empowerment.** As attested both by reviews undertaken by various monitoring bodies, as well as through the testimonies of the study's interviewees¹⁶⁹, women -particularly those employed in domestic work- have been deemed vulnerable to exploitation in such contexts.

At the same time, the changing of **gender norms and levels/sectors of educational attainment for women have led to the gradual shift of stereotypical perceptions around women's capabilities** or the appropriate sectors for their employment, further empowering and emancipating some of them in pursuing careers beyond the confines of underpaid and low skilled sectors¹⁷⁰.

B3.4. Mechanisms in support of women migrant workers

As the analysis above indicates, **gender-specific barriers may deter access to complaint, redress and justice mechanisms, and other means of protection and advocacy for women.** Potential support mechanisms include independent monitoring bodies, national, regional, and international human rights mechanisms, ombudspersons, national preventive mechanisms, and other relevant stakeholders that can effectively monitor, report and take action regarding the implementation or violation of human rights of migrant women workers. It is, however, important to ensure that the existence and objectives of these mechanisms

are adequately communicated to women, and their assistance remains available and accessible to them.

Some examples of supportive structures in the service of women migrant workers that emerged in this research include the Committee on the Protection of the Rights of all Migrant Workers, an international body of independent experts monitoring the implementation of ICMW; the Migration Policy Framework for Africa and Plan of Action (2018-2030), which proposes the provision of complaint mechanisms responsive to gender-specific complaints of women migrant workers, and in Cameroon, the Ministry for the Promotion of Women and Family (MINPROFF) that supports the implementation of labour migration policy and hosts a multidisciplinary team responsible for the coordination, monitoring and sustainability of projects related to the protection, psychosocial support and reintegration of women migrants. The ECOWAS policy briefing on assessing gender inclusion in its migration policies includes recommendations on the improvement of data collection regarding women's migration, discouraging discriminatory practices by national authorities, and setting up a support mechanism for women migrants to seek redress and support in all member states.¹⁷¹ Lastly, the AU Youth and Women Employment Pact for Africa (2013) calls for greater regional collaboration between the AU and RECs to develop a way forward for enhancing the capacity, skills, and access to employment for youth and women, and for more pronounced collaboration in the development of a continent-wide Labour Migration Plan, and a Jobs Matching and Mobility Platform.¹⁷²

It is important to note, however, that all related mechanisms should further enhance their own accountability to women migrant workers, while strengthening women migrant workers' organisations to achieve effective advocacy for their rights.

¹⁶⁹ KII 6 Morocco - French National Centre for Scientific Research (CNRS).

¹⁷⁰ KII 7 DRC - Higher Institute of ICT and Management.

¹⁷¹ Bisong, A. (2019) 'Assessing gender inclusion in the migration policies of ECOWAS'.

¹⁷² AU (2013) 'Youth and Women Employment Pact for Africa'.

B4.5. Conclusion on gender empowerment

Through their experience of migration women often come to be agents of change, contributing to social integration and to the economic development of communities both in their home and host societies. Beyond their common portrayal as actors with little no agency, and 'those left behind', women are, in fact, **active participants in voluntary migration regionally, especially with regard to labour migration**¹⁷³. Notwithstanding their dynamism and contributions, however, women migrant workers, remain **particularly vulnerable to intersecting forms of discrimination and exploitation, and thus in need of special protections and provisions. This study's evidence underscores the different realities faced by vulnerable migrant workers, and the need to address these issues by advancing gender equality and empowerment.**¹⁷⁴ Gender-responsive legal and policy interventions can improve the working and social conditions of women migrant workers and facilitate their contribution to inclusive growth both in their home and host societies, in the direction of structural transformation across Africa. **It is necessary to ensure that women are empowered by law, policy, and practice to migrate safely and work under decent conditions.**

To achieve this, along with the necessity to improve the ratification and domestication of international legal standards; the coordination between different stakeholders; the strengthening of policy coherence; the promotion of gender-responsiveness and sensitivity in the governance of labour migration, and the improvement of monitoring mechanisms, it is important that women themselves are more included in the design of policies related to the advancement of their rights.

B4. Climate-related and seasonal migration

Aside from a pathway out of poverty, violence, and various forms of cultural and gender-based discrimination, migration also represents a way to mitigate the effects of climate change for great numbers of affected populations. Climate change has instigated the rapid reshaping of mobility patterns globally: while labour migration towards new directions emerges as a key coping strategy for many, centuries-old pathways of seasonal, circular, and regional migration get reanimated. Existing migrants and displaced populations are bound to be exposed to new climate-related hazards, while several communities globally are anticipated to face the possibility of climate-related displacement.

The migration and climate nexus are of particular importance in Africa, as climate-related migration and seasonal labour mobility constitute two of the key mechanisms for adaptation and livelihood safeguarding for local communities faced with the challenges posed by the climatic and environmental changes that several parts of the world undergo, including the African continent. These processes will be particularly pronounced for those whose sustenance relies heavily on agriculture, and/or live in threatened ecosystems, who increasingly seek to mitigate the negative effects of climate change through mobility, without this, however, always necessarily being the optimal solution for them and their communities in the long run¹⁷⁵.

Climate change and its influence on seasonal migration is not high on the policy agenda for several African countries despite how widespread the phenomenon is.

Even in areas where circular migration is common, particularly in relation to agricultural activities, such as in the region between Amhara and Gedarf in Sudan through Metema, as well as in the Sahelian zone, or among Somalia, and

¹⁷³ Awumbila, M. (2015) 'Women moving within borders: Gender and internal migration dynamics in Ghana', *Ghana Journal of Geography*, 7(2), pp. 132–145.

¹⁷⁴ Ibid.

¹⁷⁵ Vinke, K., Rottmann, S., Gornott, C., Zabre, P., Nayna Schwerdtle, P. and Sauerborn, R. (2021) 'Is migration an effective adaptation to climate-related agricultural distress in sub-Saharan Africa?', *Population and Environment*, 0(0), pp. 1–27.

Ethiopia, no agreements nor frameworks exist for the terms under which these movements occur. In the case of seasonal migration between Sudan and Ethiopia, most seasonal workers who cross between countries are youth who do so informally and then return to their communities of origin once the agricultural season is over. In Cameroon, seasonal or work-related migration is not a part of labour policy discussion, partly because of the inherent deficiencies of national labour migration policy and the absence of any references to climate or seasonal migration. Related issues, therefore, are managed on a case-by-case basis, as it emerged through the interviews conducted.

Although certain aspects of the economic impact of climate change are predictable, forecasting on the social impact of these processes on enterprises and workers, working conditions, employment, and income is more complicated. Addressing the social impact of climate- and seasonal migration in Africa involves the interplay of different policy fields, such as development cooperation, labour, urban planning, humanitarian aid, rural development, and migration, among others, all of which should be informed to include varied notions of human mobility¹⁷⁶.

Efforts for international coordination on these themes at a global and regional scale are fragmented and comprehensive frameworks have yet to emerge. As such, for the vast majority of the study's participant countries, climate change and its influence on seasonal migration does not appear to rank highly on their policy agenda, which also holds true for most of Africa's states. Even among Sub-Saharan African (SSA) countries that are particularly affected by environmental changes, attention to climate-instigated changes and unrests remains limited.

Among the interviewed decision-makers, however, some appear to be sensitised to the threats of **climate change and the critical security and safety issues**, and other society-wide challenges it brings, while acknowledging the alarming lack

of attention to the matter, as in the case of a participant from Nigeria:

Climate change is becoming a major cause of concern looking at the issues from a security perspective. The farmers-herders crisis is also an aftermath of climate change, and that is pushing migration out from – especially the rural areas into the urban areas. It is also pushing migration outwards because those who feel unsafe within the rural area due to these farmers-herders clashes and who may not find space within the urban area, their next priority will be on how to leave Nigeria. People will be selling their property all in the name of trying to leave Nigeria because of this crisis. Therefore, [climate] is becoming a major concern for the governance of migration in Nigeria, but it is not in the front burner of discourse”.

► **KII 4 Nigeria - Nigeria Labour Congress**

Focusing on the social dimension of climate-related migration is also important from a development- and social justice perspective. Examples of such efforts include the establishment of a Thematic Working Group on climate change, land degradation, desertification, environment, and migration by the Migration Dialogue for West Africa (MIDWA) and IOM. The National Migration Policy in Ghana is one among the actors that regard migration in the context of environmental

¹⁷⁶ Mbiyozo, A. N. (2021) *The continent will bear the brunt of global climate change impacts and must prepare for internal migration*, ISS.

and climate change as a strategic area for intersectoral/inter-ministerial collaboration¹⁷⁷. Cooperation on labour migration requires the full integration of its social and employment dimensions into plans for climate change adaptation.¹⁷⁸ Additionally, the ILO's Employment Intensive Investment Programme (EIIP) has more than 30 years of experience working with many of the development partners who are actively involved in adaptation efforts to climate change and natural disasters, environmental rehabilitation, ecosystem restoration and nature conservation¹⁷⁹.

Regarding seasonal employment, coordination must also be sought between relevant authorities and employers. In Sudan, the Department of Foreigners' Affairs uses the so-called inventory forms as a flexible tool in dealing with seasonal workers who may be illegally present in the country. A KII shared the following:

Frankly, there is no seasonal worker who enters with a passport. They come infiltrated and they are exclusively from the state of South Sudan, Ethiopia and Eritrea. The reason is that these are in the border areas. I work in agriculture as well. If a worker comes to me, I do not ask him for documents I will employ directly, because if I do not do that, I may not find someone who can do the work for me. These workers come during the harvest seasons, perform their work and take their wages, then return to their countries and no one asks them.

► **KII 7 Sudan - Ministry of Foreign Affairs**

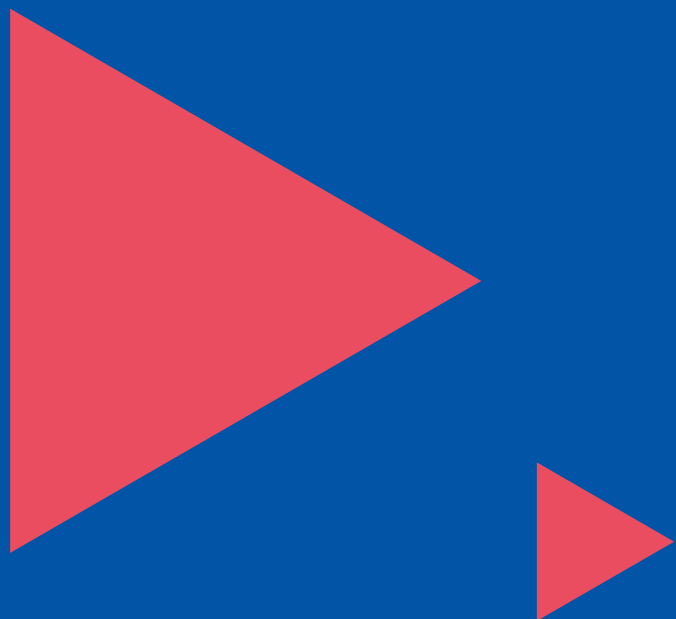
¹⁷⁷ Ibid

¹⁷⁸ McQuillan Bridson, C. (2017) 'Climate change and labour migration: Challenges for decent work and opportunities for a "just transition"', in *329th ILO Governing Body Meeting*.

¹⁷⁹ ILO, Employment-Intensive Investment Programme Technical Brief – Green works.

▶ 4

- ▶ **Implementing Frameworks: Challenges and Good Practices from 14 Selected Case Study Countries**
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This section **builds on the analysis of the various legal and policy frameworks on labour migration to examine where implementation is challenged in practice, and what possible alternatives can be considered**, with specific examples taken from the fourteen target countries. The analysis will be based on the Desk Review, Key Informant Interviews, findings from the ALMS, and the close examination of national level policies. As a final findings chapter, it summarises it presents the key challenges in this field, and the potential for improvements is underpinned by examples of good practices implemented in different national contexts ahead of the study’s conclusions and recommendations.

Based on the data collected across the participating countries, eleven key issues were identified as needing to be urgently addressed to bridge the gaps in the implementation of labour migration frameworks, which are presented in the table below. Each of these challenges will be detailed in the following subsections, alongside good practices that can be replicated and scaled to address them at the national and regional level.

► **Table 6. Eleven challenges in closing the implementation gap in labour migration policies in Africa**

Eleven challenges in closing the implementation gap in labour migration policies in Africa	
1.	Gaps in the coordination of national level authorities and representation mechanisms
2.	Deficient or competing legislation
3.	Data shortages
4.	Limited support to women migrant workers
5.	Constrained access to the judicial system
6.	Low incorporation of migrant workers in trade unions
7.	Low level of engagement with local institutions, CSOs and local NGOs
8.	Limited awareness of migrants’ rights on the part of migrants as well as by authorities’ representatives
9.	Limited involvement and buy-in from the business community and employers’ organisations
10.	Gaps in the migration cycle: pre-, during-, and post-departure preparedness of migrant workers
11.	Unavailability of social protection and portability of social benefits

A.1 Gaps in national level authorities, coordination, and representation mechanisms

► **Table 7. ALMS 2021 key results on national-level authorities, coordination and representation mechanisms**

Key results on national-level authorities, coordination and representation mechanisms drawn from the ALMS 2021 responses	Related Graphs
Countries rely on a set of competent authorities to enforce regulation and manage labour migration. In the majority of African countries, the most important authorities regulating labour migration are those in charge of work and residence permits. Labour immigration and emigration authorities are less prominent.	Table 6 Figure 16, 17, 18
Labour migration frameworks, policies, and programmes are enhanced by multi-stakeholder participation. For this purpose, countries usually develop National Coordination mechanisms. Most African countries report having one — 46 percent of respondents. A lack of a national mechanisms, however, does not preclude cooperation: countries reported involving employers’ and workers’ organisations in labour migration-related dialogues — above 53 percent of respondents.	Table 8 Figures 22, 23, 24
Similarly, 52 percent of countries reported having representatives of employers’ and workers’ organisations in the formulation and implementation of labour migration policies.	Table 8 Figures 22, 23, 24
Among AU Member States, 37 percent of workers’ organisations and 24 percent of employers’ organisations reportedly carry out independent activities to provide services and support migrant workers.	Table 9 Figures 25, 27

The implementation and management of labour migration, therefore, emerges as a collaborative effort that involves various stakeholders, including international organisations, governments (national, federal, and local), employers' and workers' organisations, various related NGOs and CSOs, as well as the civil society and other grassroots organisations.

National authorities play a dominant role in the structuring and implementation of these processes, as they are called to consolidate and resolve the pressures and requirements presented at higher levels of international governance, along with tensions presented at the subnational level, and on the ground. Each country reports having set in place systems of national legislation, and competent authorities for the regulation and management of labour migration to some degree. Despite States' best efforts to date, however, **significant gaps are still identified on the synthesis and coordination of national level mechanisms**. This bears direct effects on the harmonisation of relevant national frameworks with international ones, and their implementation. One of the major identified shortcomings is the reduced prominence of national labour immigration and emigration authorities on matters related to labour migration, with these responsibilities being diffusely tasked among different work- and residence permit related institutions that may lack specialised knowledge on these issues. Other challenges faced across institutional structures include understaffing, lack of expert knowledge or training, paired with lack of political will to push the migration agenda forward. In sum, all these factors indicate a **critical disconnect between legislation and implementation in the majority of the cases**.

To supplement the efforts of these institutions, and mitigate potential deficits, the **involvement of employers' and workers' representative organisations is often requested in labour migration-related dialogues within National Coordination mechanisms**, as well as in the formulation and implementation of policies.

The participation of various stakeholders in such consultations, however, remains limited, as only about half of the participating countries reported doing so. Given all other identified deficiencies, the establishment of comprehensive, inclusive, participatory, and accountable national dialogues, and their articulation with global, continental, and regional interchanges, therefore, is imperative.

One of the detrimental effects of such a complex, and often fragmented framework is the difficulties that this complex national institutional and legal architecture poses in coordinating policy for labour migration according to the principles of a human-rights-based approach to migration governance. This has severe effects on vulnerable groups of labour migrants, whose plights commonly remain unreported. Lack of overview and coherent oversight among various international organisations on the implementation of their set standards, paired with their diffuse or overlapping mandates further muddles this landscape, makes it **difficult for involved stakeholders to form a clear picture of the situation at hand, and to identify or institute agencies and entities with appropriate mandates to act on those issues for the protection of migrant workers in precarious situations**.

When working on/in trees, risk control measures to prevent falls vary enormously depending on the work to be completed and the national situation. A mobile elevated working platform (MEWP) is particularly effective for working safely at height (Figure 38). If this is not possible, workers should be trained to use PPE in the form of a body harness and lanyard coupled to suitable anchor points (Figure 37).

Good practice: Regional interventions to improve labour migration governance

Several initiatives have been launched at the regional level to improve labour migration governance.

The envisioned **IGAD Ministerial Employment and Labour Committee** is one of them, as it is expected to consistently engage in policy dialogue and provide strategic leadership for the implementation of IGAD policies and priorities on labour and employment. Moreover, through the **directive on minimum standards towards the harmonization of labour laws in the region, the ECOWAS Decent Work Regional Programme (DWRP)**, and the **Memorandum on restructuring of the ECOWAS tripartite Social Dialogue Forum**, consensus on topical labour issues is being built alongside the sharing of best experiences and practices among ECOWAS Member States¹⁸⁰.

Another best practice at the regional level is offered by the **EAC Common Market Protocol, which allows workers from any Partner State to accept employment within any other EAC country without any discrimination based on their nationality**. A migrant worker is granted 90 days within which they can move to another country or negotiate with the employer before having to engage in the process of obtaining a work permit. The ongoing process of work permit acquisition harmonisation will ensure that the requirements are standardised across Member States.

The **COMESA Business Council (CBC) is also working on Policy Proposals on the gradual elimination of visa requirements within the COMESA region under the framework of the regional Protocol on the free movement of persons**¹⁸¹. COMESA also works with ILO within the Southern Africa Migration Management Programme (SAMM), which has a very focused bearing on labour migration, in helping countries set up a labour migration observatory and establish a regional database¹⁸².

The project is still in its infancy, and consultations with member states are ongoing to find out their needs and regulatory regime. COMESA is also working with the **AU under LMAC and JLMP**, and was elected to implement a follow up programme, focusing on ECCAS and five member states, namely Ethiopia, Cameroon, Côte d'Ivoire, Malawi and Morocco.

Some countries have also abolished visa fees and facilitated linkages between residence and work permits. In Kenya, beyond migrant workers, the Refugee Affairs Secretariat (RAS), and the Refugee Consortium of Kenya (RCK) are reported to be involved in facilitating access to the labour market for refugees, while through the "Let Them Work" initiative, a three-year program of work led by the Center for Global Development (CGD) and Refugees International and funded by the IKEA Foundation and the Western Union Foundation, a facilitation of labour market access for refugees and forced migrants is attempted in Kenya, by identifying their barriers to economic inclusion and providing recommendations to host governments, donors, and the private sector for how to overcome them¹⁸³. Additionally, studies have sought to identify bottlenecks from the perspective of social partners and guide the authorities on how to respond to them.

A.2 Deficient or competing legislation

Absence of legislation related to migration hampers development and management of migration in general, allowing for loopholes which can lead, in the most extreme situations, to cases of human trafficking and other forms of severe exploitation and abuse. With no legislation, prospective labour migrants may opt for irregular journeys, which increase their vulnerability at every stage of the migration cycle. Further, **migrants' rights cannot be adequately protected in the absence of sound and robust legislation that is being cooperatively implemented through a process of meaningful interaction at the national and international level among RECs, individual countries, subnational authorities, and various other stakeholders.**

¹⁸⁰ ECOWAS (2019) *Minister adopt Recommendations on Decent Work and Harmonisation of Labour Laws for the Region*.

¹⁸¹ COMESA Business Council (2019) *A common private sector position on the gradual elimination of visa requirements in the COMESA region*.

¹⁸² ILO (2020) 'Revised Standard Joint Programme Document'.

¹⁸³ Graham, J. and Miller, S. (2021) *From displacement to development. How Kenya can create shared growth by facilitating economic inclusion for refugees*. Center for Global Development/Refugees International.

To illustrate this point, the Somali civil law is not functional and has not been implemented since the collapse of the central government in 1991. At the level of the federal government, therefore, there are no new laws governing labour migration and labour rights, including the rights of labour migrants is regulated through law 37 of 1973¹⁸⁴.

Within such a deficient landscape of legal protection, on top of the protracted conflict, insecurity, hardship and famine across the country, migrant workers are particularly susceptible to exploitation¹⁸⁵.

Competing or deficient legislation is also problematic due to the space it allows for contrasting interpretations, or for inaction. An example of this challenge is presented in the **Employment Act of Uganda**¹⁸⁶, which contains provisions on how workers may access a remedy, however, for migrant workers access to this provision is uncertain as the law does not specifically indicate how migrant workers in particular may access remedies for violations of their rights. Similarly, the **Somalian Foreign Employment Act**¹⁸⁷, which regulates labour migration to Somalia, does not contain any protection mechanisms for migrant workers in Somalia and only details the procedures related to obtaining work permits for migrant workers, which appear to be given short shrift in the face of the overarching challenges the country faces.

Conflicting laws can also impede the complementarity among institutions, as for example, in **Morocco**, when the 02-03 law¹⁸⁸ is applied at the institutional level then the National Agency for Promotion of Employment and Skills (ANAPEC) does not have the power to apply, something that further disadvantages migrants.

Good practice: Setting up national governance structures on migration and labour migration

“One gap that exists is that labour migration largely in Africa is viewed as a security issue. If you look at our labour and movement policies, they have more of the security angle of course because of the challenges that the continent faces. How do we let go of that mindset so that it’s viewed from an economic angle? That will also tell you about the placement of the work permit; if you place the work permit in the Ministry of Interior instead of the Ministry of Labour, you are looking at it not as a labour issue but a security issue.”

► KIIREC 3 Kenya - Federation of Kenya Employers

One of the mechanisms intended to steer inter-ministerial and inter-agency coordination on labour migration are **National Coordination Mechanisms (NCMs)** – with both national level NCMs, and sub-national level coordination systems. In some of the countries of this study, namely Ethiopia and Kenya, trade union organisations are also part of the NCMs; yet one of the key gaps remains the lack of representation of employers’ organisations¹⁸⁹. The fourteen countries reviewed are at various stages of establishing and working through their respective NCMs.

¹⁸⁴ Somalian Civil Code (Law No: 37 of 2 June 1973).

¹⁸⁵ ILO (2020) *An assessment of labour migration and mobility governance in the IGAD region. Country report for Somalia.*

¹⁸⁶ *Uganda Employment Act (2006).*

¹⁸⁷ *Somalian Foreign Employment Act (2015).*

¹⁸⁸ Morocco: *Law n° 02-03 relative to the entry and stay of foreigners in the Kingdom of Morocco, to emigration and irregular migration, 11 November 2003, I*

¹⁸⁹ ILO (2020) *An assessment of labour migration and mobility governance in the IGAD region. Regional report., Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility.*

Nigeria has both a labour migration policy, and a national migration policy, which come together in the form of a technical working group involving government and non-governmental actors. This allows for policy alignment, division of roles and coordination among different actors. In relation to national governance structures, the same ministry in Nigeria is responsible for both the employment and the labour migration policy, further emphasising the alignment between related policies. The Nigerian national policy on labour migration is further supported by the Labour Advisory Committee: a tripartite grouping composed of the government, employer- and trade unions, and some relevant non-social partners that are critical to the implementation of the policy. It has about seven thematic groups, which are being led by core government agencies, under whose responsibilities these issues fall.

In **Sudan**, the department concerned with regulating the work of migrants, whether regarding Sudanese working abroad or foreign workers migrating to Sudan, is the General Administration for Employment and Immigration, and the legislation governing the work of migrants is referenced by international labour agreements. The enactment of labour legislation in Sudan is carried out with the participation of three parties: a) the government, represented by the Ministry of Labour; b) the Employers Union, and c) the General Union of Sudan Workers. The law regulating the work of migrants is the Labour Law of 1997, which contains procedures for contracts, and details on the protection of workers, among other provisions.

One of the most advanced NCMs is that of **Kenya**, which has shown strong governmental ownership, the participation of various ministries “as well as international organisations, CSOs, and academia. The Kenyan NCM has a Technical Working Group on Labour Migration”¹⁹⁰ as it has been noted by ILO. Kenya has also launched a National Migration Coordination Mechanism (NCM), as a government and inter-agency coordination platform for migration management.

One of its strengths is that it includes local governments, in line with the devolved government and the desire to bring policy implementation from the country to the county and local levels. One of its weaknesses, as highlighted in a 2020 ILO report, is its focus on protection issues on the outbound migration flows to the Middle East, rather than a holistic approach looking at the entire migration cycle, and its implications for labour migration.

Based on experiences to date of NCMs in Africa, **the following recommendations have been previously issued by the ILO, to strengthen coordination on labour migration and improve labour migration governance.** The recommendations call for an expanded mandate for NCMs to focus on:

- The protection of migration workers;
- Migration and development;
- Return and reintegration;
- The protection of migrant workers at home;
- Addressing brain drain, and
- Identifying critical skills gaps and attracting migration labour to those sectors¹⁹¹.

A.3 Data shortage

To take decisive action on labour migration **national authorities need to have access to rich and reliable information** that can responsibly inform their policy- and decision-making processes. This information is collected primarily through censuses and surveys, as well as other administrative and innovative data collection methods, and can then be used to produce official statistics on migrant stocks and flows, and migrants’ socio-economic and demographic characteristics, among other critical indicators¹⁹².

A notable and time-persistent shortage of adequate data on migration, its patterns and drivers, and sociodemographic characteristics has been identified¹⁹³, however, and although the existing data are widely used for research and policy purposes, **their quality and accuracy have been under question**¹⁹⁴.

¹⁹⁰ ILO (2020) *An assessment of labour migration and mobility governance in the IGAD Region. Regional report. Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility*. p.18.

¹⁹¹ Ibid p.19.

¹⁹² *Migration Data Portal*. <https://www.migrationdataportal.org/>

¹⁹³ National Research Council (1985) *Immigration statistics: A story of neglect, Immigration Statistics*. Washington, DC: The National Academies Press.

¹⁹⁴ Bircan, Tuba et al. (2020) *Gaps in migration research. Review of migration theories and the quality and compatibility of migration data on the national and international level*. (Deliverable n°2.1). Leuven: HumMingBird project 870661 – H2020.

Official data often fail to accurately capture the scale and nuances of the labour migration, or the actual circumstances faced by labour migrants. Deficient information on **skills matching and skills recognition, labour flows and stocks**, as well as on the state of human rights are among the identified challenges. Moreover, even if data is in some cases available, it is often incomplete, while statistics fail to capture irregular and otherwise marginalised populations.

Data shortage or subpar quality in relation to migration, and its labour component in particular, **hinders the understanding of the phenomenon as a whole, and conceals the particularities of the sectors in which foreign workers are predominantly employed**. These factors set any subsequent actions up for limited success, as certain migrant groups might be entirely overlooked, or certain sectors most related to labour migration might not get prioritised in terms of programming and budgeting due to the absence of accurate and adequate data. **As such, data shortages are a major handicap for state governments as deficient information further holds back the identification of knowledge gaps and obscures the direction towards which related policies should be planned for and enacted.**

Drawing from the example of participating countries, **Somalia**, for example, does not have a skills inventory or a comprehensive system to identify current and future skills gaps. According to the Federal Government of Somalia, a skills inventory existed prior to the fall of the central government of the military regime, and the current Ministry of Labour and Social Affairs is in the process of restarting a mechanism to build a skills inventory to highlight available and future skills gaps in the country. As highlighted in the 2020 ILO report on the IGAD region, several member states aspire to develop Labour Market Information Systems but are still at various stages of establishing such systems.

Good practice: Collaboration on statistics and data frameworks, at regional and national levels

The importance of regional and national collaboration in data capturing and sharing is highlighted by international instruments. The **GCM**, among its other objectives, emphasises the importance of accurate disaggregated data on migration as well as information-sharing among States. The **MPFA** also underlines the importance of regional cooperation and migration data and research-sharing, while the **ILO** in their Report on Labour Migration Statistics in Africa further highlights the need for reliable statistics.

At the continental level, the **AUC**, as part of their activities through the **JLMP**, is building a database on international labour migration in Africa, containing a long series of up-to-date data spanning more than a decade¹⁹⁵. This database is intended to improve the understanding of statistics on labour migration and facilitate the design of comprehensive policies in various sectors, including labour, migration, education, employment and development.

Notable initiatives at the regional level include:

- **COMESA's collaboration with Statistics Sweden**, to develop a data framework for the region. This collaboration aims to produce reliable statistics as a basis for analysis, debates, and decisions at the regional level, which can then be replicated in other RECs. This collaboration will be particularly useful in making informed decisions based on actual and available data at the regional level and can be replicated in other RECs
- The inclusion of data and statistical information sharing in the **Cooperation Agreement between Mozambique and South Africa** in the Fields of Migratory Labour, Job Creation, Training, Studies and Research, Employment Statistics, Social Dialogue and Social Security, 2003.

¹⁹⁵ AU (2020) *Report on Labour Migration Statistics Migration Statistics*. 2nd edn.

Reliable statistics on labour migration are essential for the facilitation of national and regional governance of free movement and migration and the design of comprehensive related policies.

As such, concerted efforts at the regional and national levels should be intensified to supplement existing collaborations on statistics and data frameworks.

A.4 Limited support to women migrant workers

The introduction of the trade information officers and the introduction of helplines at the border points are a clear and physical presence of support for women [...] they feel that there is help when they get to the border but also serving as a deterrent to border officials and immigration customs to also know now that these women have come and they have got enough documentation, they are well versed with what is allowable on their side. So that is a good practice we have seen benefitting and encouraging women to carry on with cross border trade.

► KIIREC1 - Business Africa/Federation of Kenyan Employers (FKE)

The numbers of women migrant workers across Africa have been steadily growing in recent years, following the trend of feminisation of migration that exacerbates pre-existing trends of female

migration in Africa, as women are increasingly called to act as primary providers for their families. For many women migration provides a much-needed source of income to alleviate widespread poverty, while it also helps them build skills and capabilities that are instrumental for their empowerment¹⁹⁶, as well as their personal and overall socioeconomic development.

Women, therefore, are found to be increasingly making vital contributions not just to their countries and communities of origin, but also those of their destination. However, they are multiply exposed to discrimination, exploitation, violence, the risk of trafficking and other rights' abuses at every stage of their migration cycle, on top of the deskilling and sectoral exclusion they also experience. These factors severely limit women's ability to secure fair recruitment and decent working conditions, while also limiting their capacity to seek remedy and support services in the case of rights' violations. Regrettably, certain categories of women labour migrants, such as those in irregular status, or those employed in the informal economy, such as domestic work or sex work, are put in even greater risk by the isolating and precarious conditions imposed by their work, yet they are even further marginalised in terms of legal protections.

Gendered norms, inadequate labour migration systems that do not fully protect their rights, and a host of structural disadvantages beset women disproportionately in their effort to secure an income for their families and themselves. The case of women cross-border traders exemplifies these conditions: channelled into a low-income, female-coded, informal, and labour-intensive work due to their limited skills and resources, and the lack of other available options, women are thereby kept in continuous movement across borders to secure the stock of their supplies as, due to their scarce capital and other unfavourable market conditions, maintaining adequate stocks or securing a living wage is often impossible for them¹⁹⁷.

¹⁹⁶ UNCTAD (no date) *Informal cross-border trade for empowerment of women, economic development and regional integration in Eastern and Southern Africa*. <https://unctad.org/project/informal-cross-border-trade-empowerment-women-economic-development-and-regional-integration>

¹⁹⁷ The East African Community Customs Union (2006) *Women and cross-border trade in East Africa: Opportunities and challenges for scale women traders*. Nairobi: Friedrich Ebert Stiftung.

It is necessary to move in the direction of developing labour migration policies that are more gender sensitive, and gender transformative. This approach should inform all scales of labour migration governance, particularly at the regional level, as women's work-related migration in Africa typically occurs within regional geographical bounds. Women would benefit greatly from regional migration protocols that would allow for legal, safe, and straightforward entry to their destination countries.¹⁹⁸ The creation of coordinated and responsive quality services for women's protection in cases of rights violations and trafficking should also be among the core objectives of future migration governance objectives.

Similarly, the improvement of data collection, as well as awareness raising, and shifting of general attitudes on the rights and contributions of women migrant workers are also important steps in the direction of increasing support for women¹⁹⁹.

Good practice: Assessing gender inclusion in migration policies

Despite the noted deficiencies in adequately addressing the pronounced gender dimension of labour migration, which limit the benefits of migration for women, and leave them exposed

to gender-specific risks, such as harassment and discrimination, there are some notable exceptions within regional and national frameworks, which can serve as best practices for future action. Gender equality is enshrined in the AU's Constitutive Act, as one of its 16 basic principles, as well as in the African Union Development Agency's New Partnership for Africa's Development (NEPAD) strategic framework²⁰⁰, which envisions the acceleration of women's empowerment. The adoption of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa²⁰¹ was another major step in the direction of gender equality for the continent.

Following these continent-wide guidelines, examples at the regional level include the recommendations issued by ECOWAS to its Member States in its 2019 policy briefing²⁰² on the assessment of gender inclusion in migration policies to include improved data collection on women's migration, to discourage discriminatory practices by national authorities, and to set up support mechanisms for women migrants to seek redress and support²⁰³.

At the national level, countries such as Ethiopia have taken steps to include a focus on women's experiences of return, through the development of Guidelines for the Reintegration of Ethiopian

► Box 1. Changing perceptions of gender roles: Women migrant workers as role models

An academic who is also the director of an educational institute in the DRC explains how the entry of women migrant workers in the construction sector in DRC has not only helped support sectoral developments, but it has also changed the perceptions of women's role in the economy and opened new possibilities for Congolese women as well:

"In the DRC, the fact of observing foreign women in masonry has produced a change in the perception of Congolese women. Most of the Congolese women thought previously that a woman had no place in

the construction sector or on the building site. This has changed, opening new horizons for other women (beyond migrant workers) at the local level who had chosen to stay at home instead of going out to look for work".

KII 7 DRC - Higher Institute of ICT and Management

¹⁹⁸ Andall, J. (2018) *Intra-African female labour migration: Common issues, work and rights, Economic Development in Africa Report*. 1. UNCTAD.

¹⁹⁹ ILO (2018) *Changing attitudes and behaviour towards women migrant workers in ASEAN: Technical regional meeting*. https://www.ilo.org/asia/publications/WCMS_715939/lang-en/index.htm.

²⁰⁰ See <https://www.nepad.org/>

²⁰¹ AUC (2003) 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa'.

²⁰² Bisong, A. (2019) 'Assessing gender inclusion in the migration policies of ECOWAS'.

²⁰³ Ibid.

Returnee Migrant Domestic Workers in 2014²⁰⁴. The change of attitudes at the local level can have positive spill-over effects regarding women's inclusion: this is illustrated in the case of DRC, in Box 1, where the entry of women migrant workers has changed perceptions on women's roles in the economy and the labour market.

A.5 Constrained access to the judicial system

One of the mechanisms to protect migrant workers from exploitation, those in the informal sector most notably, is to ensure that they can have access to the justice system at their place of residence. Access to justice remains a migrant's right²⁰⁵, guided by the principles of non-discrimination, equal and effective access, fair proceedings and due process, and the right to an effective remedy, among others. Yet, while this right is afforded to migrants in the letter of national and international laws, its practical implementation remains far from optimal.

Migrants are faced with multiple barriers to accessing justice in their destination countries, including lack of language skills or literacy, unfamiliarity, and cultural difference, prejudice, racism and discrimination, past trauma that prevents them from initiating such a process, and unsurmountable complexities of the legal system, and their own legal status²⁰⁶. All these factors create a context of compound disadvantage, especially for certain categories of migrants, such as women and young people, those with irregular status, and those who face poverty and literacy challenges.

Conditions of abuse and exploitation, for which migrant workers might have chosen to seek legal recourse, are most common in the informal sector, such as in domestic work, which makes it even harder for those with irregular residence or work conditions to seek the help of support services or the justice system.

But even for lawfully present and working migrants, failure to acquire access to justice can exacerbate their vulnerability.

Examples illustrating the contexts of judicial disadvantage, which migrants are often caught in include their common lack of awareness or understanding of their contracts' content, or them being passed on from one employer to another without their consent.

Legal status, and the conditions upon this depends, is among the key barriers in migrant workers' access to justice - even for lawful labour migrants. For instance, there is a pronounced lack of legislative protections that would enable migrant workers to legally stay in their host country beyond the expiration of their work permit and pursue justice for violations against them. In many countries there are no such provisions, but if addressed, migrants' consideration of choosing to seek justice is expected to significantly increase.

Good practice: Responsive and collaborative initiatives

Several countries have initiated responses to the plethora of barriers, in an effort to improve migrants' access to justice. One of the ways in which countries often respond to these challenges is to rely on the provision of temporary work schemes and temporary emergency shelters for migrant workers awaiting outcomes of legal action, as seen in an example drawn from the global context in the case of Thailand²⁰⁷. When the ALMS 2021 respondents were asked whether permission could be granted for temporary workers to remain in the country to seek other employment, the answers received were varied (see Table 8). However, several countries does provide such provisions, which is a positive first step in the direction of facilitating access to justice, which all remaining countries could gradually draw from and replicate.

For migrant workers in Sudan, litigation bodies are available, and any migrant worker, regardless of the status, has access to them and can seek redress and in the case a satisfactory solution is not found workers (including migrants) can present their case in front of a judge at the labour court.

²⁰⁴ IOM/MICIC (no date) 'G 14: Address migrants' immediate needs and support migrants to rebuild lives.'

²⁰⁵ IOM (2019) 'IML information note on access to justice: A migrant's right'.

²⁰⁶ Prakash, Neha (2019) *Access to justice for people from refugee and migrant backgrounds in Australia*. Settlement Council of Australia.

²⁰⁷ ILO (2020) 'Ensuring migrant workers access to justice: An assessment of Thailand's Migrant Workers Assistance Centers'.

Moreover, in Sudan a mechanism called the Mechanism for the Protection of Sudanese Workers Abroad was established to address the problems faced by Sudanese migrant workers abroad in relation to their rights in destination countries. This mechanism serves as a one-stop-shop for them to air their grievances and seek remedy.

Issues of litigation can be ambiguous and sensitive, and in the case of trafficking victims, for example, informants report that the courts of law are uncertain about litigation processes. Greater attention needs to be drawn to the capacity building of judicial officers and law enforcement officers under legal national frameworks and international standards, as done through, for example, the Better Migration Management (BMM) project funded by the European Union in the East and Horn of Africa²⁰⁸.

In the case of Uganda, the Uganda Human Rights Commission (UHC) has a Department of Inspection and Monitoring, as well as a Department of Information and Legal Services, which play a key role when it comes to issues of human rights concerning the externalisation of labour. The UHC is the only mandated authority to report on human rights abuses, yet despite their mandate, they are also faced with limitations in their mandate's implementation due to restrictions on their strictly national jurisdiction and express provision. Alternatively, they could fulfil their role through

the work of labour attachés abroad, but as it has been noted in one of the KIIs, the government has limited funds available for the recruitment of labour attachés²⁰⁹.

Informants interviewed for this study in South Africa agreed that more needs to be done to ensure that migrant workers, especially vulnerable undocumented ones, are able to access the labour recourse mechanisms such as the Department of Labour or the Labour Court. They also raised the importance of adequately funding migrants' access to justice, to address budgetary cuts for migration-related work in South Africa which can have had severe repercussions on the number of cases to be heard and resolved.

In other countries, such as the DRC, the research team was made aware of situations where migrant workers are seen as having preferential access to justice, contrary to what is usually the case. Giving the example of Indian shops attacked by Congolese nationals, in response to the alleged killing of a Congolese student in India, the Government was able to deploy the police and secure Indian citizens, and their goods and services. Overall, these examples show the discrepancies and the lack of standards across countries in terms of migrants' access to justice²¹⁰.

In conclusion, responses to the barriers labour migrants face in accessing justice across Africa need to be set up through multilevel, yet

► Box 2. Harmonising African Business Law to improve access to justice for all informants²¹¹

A respondent raised the issue of harmonising access to justice at regional and subregional levels, learning from best practices within existing initiatives. One such example would be the Organisation for the Harmonisation of African Business Law (OHADA), which was created in 1993 to promote regional integration and economic growth, and to ensure a secure legal environment through the harmonisation of business law. The OHADA Treaty includes the creation of headquarters for the Common Court of Justice and Arbitration (CCJA) Abidjan, Côte d'Ivoire.

The role of such regional arbitral institutions has grown in recent years²¹², and has the potential to contribute in resolving the current limitations on the lack of access to justice for migrant workers.

²⁰⁸ European Commission (2017) 'Better Migration Management Programme Phase II', pp. 1–26.

²⁰⁹ KII 5 Uganda - German Agency for International Migration (GIZ).

²¹⁰ KII 4 DRC - Catholic University of Bukavu

²¹¹ KII 3 Côte d'Ivoire - Ministry of Justice.

straightforward, initiatives, and ensure their successful integration and contribution to host societies. The full spectrum of government, justice system, service providers and border community must cooperate and mobilise in this direction. Focus areas should include:

- the improvement of legal awareness among migrants, the wider community, and authorities;
- increasing migrants', communities' and authorities' engagement with these issues;
- fostering contact between migrants and their host communities, and with authorities to overcome potential bias;
- enhancing overall justice service provision to migrants;
- encouraging courts and legal professionals to refer migrants to appropriate services they might be unaware of;
- ensuring the availability of female/culturally competent interpreters and mediators in the process of accessing justice;
- strengthening the role and work carried out by civil society in these directions;
- promoting inclusivity, diversity, and human-centred approaches in addressing barriers to

- accessing justice;
- improving planning and monitoring of the workings of the justice system.

A.6 Low incorporation of migrant workers in trade unions

There is a lack of union engagement with migrant workers, as the latter do not often seek membership to national trade unions, while unions also find it hard to reach out to migrants as they are typically not based in the workplaces and forms of employment where unions tend to be strongest. As previous studies have shown²¹³, language and culture can also pose significant barriers in communication and union recruitment of migrants, while their pre-existing perceptions and experiences of what trade unions are and what their actions entail also affect migrant workers' willingness to engage with them. Time and financial limitations also play an important role in migrants' decision to prioritise trade union meetings and membership fees, while struggling with heavy work schedules at low-paid jobs.

► **Table 8: Permission to temporary workers to remain in host country to seek other employment**

Country	Allowed to remain in the country to seek other employment
Algeria	no
Cameroon	yes
DRC	yes
Egypt	=
Ethiopia	no
Côte d'Ivoire	yes
Kenya	yes
Morocco	yes
Nigeria	yes
Somalia	yes
South Africa	-
Sudan	yes
Uganda	-
Zimbabwe	no

²¹² Carter, J. H. (ed.) (2018) *The international arbitration review*. 9th edn. Derbyshire: Law Reviews.

²¹³ Staunton, B. (2020) 'A worker is a worker': *The trade unions organising migrants across Europe*. Equal Times.

Informants interviewed for this study acknowledge that migrant workers would benefit from joining trade unions, which would allow them to work with the confidence of knowing their rights and their obligations²¹⁴.

This is not a generalised practice however, as material from this, and prior studies indicates. In Algeria the formation of independent trade unions is prohibited²¹⁵ despite the country having ratified Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948) in 1962, and Convention No. 98 on the Right to Organise and Collective Bargaining (1949) in 1962. Therefore, migrants do not have any union or related association to represent them, and the explanation of their rights and responsibilities falls upon their employers.

In **Somalia**, the Federal Somali Trade Union (FESTU) advocates for workers' rights, with about ten unions falling under its network. The Federal Government of Somalia has a working relationship with the ILO, the Somali Congress of Trade Unions (SOCOTU), and the FESTU. Together, in January 2021, they launched Promotional Engagements for Ratification and Domestication of ILO Conventions on Labour Migration to provide legal protection for migrant workers. The focus has so far remained on the protection for Somali migrant workers abroad, while the problem remains that migrant workers in Somalia do not belong to such trade unions nor do they take part in such consultations²¹⁶.

The Migrant Workers Organisation of **South Africa** (MIWUSA) is a shadow trade union for migrants, dealing mainly with migration, labour migration, documentation, access to social services and the banking sector.

With regard to the dangers of oversimplifying the conversation on migrant workers' rights in the country.

With regard to the conversation on activism and the protection of migrant workers in South Africa, Vanyoro wrote in 2021 on how seemingly polarised trade unions and NGOs have adopted a singular and oversimplifying discourse on migrant workers' rights which, instead of underpinning their protection is actually detrimental to it²¹⁷.

Good practice: Workers' organisations inclusive of migrant workers

In **Yaoundé, Cameroon**, there have been **awareness-raising efforts directed towards the employers of migrants**. Migrant workers from various countries have been grouped into associations with local authorities so reaching out to them for training and other activities is facilitated.

Across our 14 case study countries, Algeria, Nigeria, and Zimbabwe stand out as examples of countries where employers' organisations and workers' organisations are the most implicated on issues of labour migration and migrant workers' rights (see Table 9 below). In Zimbabwe, one of the issues of concern raised by our informants concerns the misalignment between the Labour Act and the 2013 Constitution that is perceived to be directly affecting migrants. The lack of laws and institutions to address the issues that emerge from this offers an entry point for workers' organisations, and the Zimbabwe Congress of Trade Unions (WCTU) to step in and represent migrant workers' interests in the country.

A.7 Low level of engagement with local institutions, CSOs and local NGOs

In 2019, the AU published the **Capacity Building Strategy on Labour Migration Governance in Africa**²¹⁸, which was developed in the framework of the JLMP.

²¹⁴ KIII3 DRC - Free Christian Trade Union of Congo.

²¹⁵ Rubiano, C. (2020) *PSI denounces ongoing repression against independent unions in Algeria - PSI - The global union federation of workers in public services*, *Public Services International*.

²¹⁶ FESTU/ITUC-Africa (2015) 'Joint submission by Federation of Somali Trade Unions (FESTU) and African Regional Organisation of International Trade Union Confederation (ITUC-Africa)'.

²¹⁷ Vanyoro, K. (2021) 'Activism for migrant domestic workers in South Africa: Tensions in the framing of labour rights', *Journal of Southern African Studies*, 47(4), pp. 663-681.

²¹⁸ AU (2019) 'Capacity building strategy on labour migration governance in Africa'.

► Table 9: Countries where workers' organisations target migrant workers

Country	Employer organisations taking part in formulation of labour migration laws	Workers' organisations targeting migrants through activities	Employers' organisations targeting migrants through activities
Algeria	yes	yes	yes
Cameroon	no	no	no
DRC	no	no	yes
Egypt	-	-	-
Ethiopia	yes	no	no
Côte d'Ivoire	no	no	no
Kenya	yes	yes	no
Morocco	no	yes	no
Nigeria	yes	yes	yes
Somalia	yes	yes	no
South Africa	-	-	-
Sudan	yes	no	no
Uganda	-	-	-
Zimbabwe	yes	yes	yes

One of the Strategy's specific objectives was to enhance NGOs and CSOs capacity "to advocate on labour migration and raise awareness on rights and opportunities of migrant workers²¹⁹". The implementation phase was planned for 2021, starting with the enhancement of CSO/NGO knowledge of existing international, continental, regional and national standards, and frameworks, to gradually involve them in roles directly related to labour migration governance, and in processes of communication with migrant workers. One of the envisioned gaps to be filled by CSOs and NGOs rested specifically on the topic of data collection regarding migrant workers.

According to informants for this study, one of the reasons behind the **low level of engagement of CSOs and NGOs remains the lack of coordinating bodies among them, and their deficient registration within their countries of operation.**

Common challenges across the board pertain to the lack of funding that would facilitate engagement with CSOs and NGOs on labour migration, and in some cases, the lack of support from governments that would create a conducive atmosphere for NGOs to collaborate on labour migration governance. Most of the local NGOs, CSOs and CBOs rely on development partners and donor funding for their engagement with labour migrants or other migration related issues. Once the funding ceases or is significantly reduced, their operations are directly affected and their advocacy and other services cease. A need for interventions so that such activities may continue uninterrupted, is identified, as well as the necessity to reduce CSOs and NGOs reliance on short-term donor funding.

Specific challenges arose from research within different countries as well, such as in the case of **Nigeria**, where the lack of local NGOs with a dedicated focus and expertise on labour migration was raised, as most related NGOs in Nigeria were described as working primarily on awareness raising regarding migrants in a consultative, rather than an applied manner.

²¹⁹ Ibid.

Good practice: Local associations facilitating the movement and protection of people and cross-border trade

Most of the activities of NGOs, CSOs and other local institutions and actors appear to engage with migrants and the issues they face at the local scale, being involved with field level support to migrant workers and traders and steering clear of overarching governance questions. Associations of small traders in DR Congo as well as cooperatives in Rwanda have been reported to be active in facilitating the movement of people and cross-border traders in the area through their collaboration with the NGO International Alert and the Trade Facilitation Project in the Great Lakes Region (TFPGL), which emerges as a good practice in the realm of local civil society engagement²²⁰. Similarly, in the DRC, while there is no trade union that defends the rights and interests of migrant workers, the NGO High Peace – present in both Rwanda and DRC – supports small traders through a legal clinic specifically assisting migrant workers²²¹.

► Box 3. One-stop-shops at border points

In Côte d'Ivoire, given the high prevalence of child migrants traveling on their own for work in neighbouring countries, NGOs such as Save the Children have been active in ensuring that social services can be accessed at border points. The NGO's strategy supports social services in terms of capacity and equipment, but also in terms of providing access in remote areas. One-stop-shops are installed in the entry points of countries, at border points, and staffed with social workers who can monitor the rights of migrants. An additional mobile team is responsible for detection, covering the border, and connecting vulnerable children to services, whether shelter, or foster families, as well as psychosocial support, as needed²²².

A.8 Limited levels of awareness of migrant rights by migrants and border officials

Notable challenges have been identified regarding adherence to border control standards and the respect of migrant workers' rights during these processes. Consultations across the 14 target countries reveal persistent corruption and harassment at the borders. But even beyond the border points, at the level of host communities, migrants are still perceived as competing with locals in the labour market, which is a lasting source of tensions and 'invisible bordering' among different groups. A pronounced need for further awareness raising has emerged through the collected data, which should target both the general public as well as government officials at different levels and locations, particularly at the borders, with regard to the contributions and rights of labour migrants with the aim of sensitising these diverse audiences, and foster acceptance, integration and cooperation at the community level.

To enhance migration management on the ground, and harmonise the practical application of law with international and national instruments, staff working across the migration sector would benefit from specialised training that would enhance their knowledge on the frameworks and processes of labour migration both with regard to their own country, as well as regarding neighbouring countries, or those from which the majority of migrants their country receives originate from, and the overarching supranational frameworks.

A low level of understanding has been noted by this research from the part of labour migrants on their rights within their host countries, particularly by those in the informal sector and those considered most vulnerable, who often happen to be preferentially hired by employers with an exploitative mindset, specifically because they would be less likely to stand up against their rights' violations. The majority of workers occupied in the informal sector come from backgrounds of pronounced disadvantage, often in rural areas, and possess very low socioeconomic capital, which makes it more likely that they do not have the means or skills to be fully informed

²²⁰ KII 1 DRC - Bukavu Official University.

²²¹ KII 3 DRC - Free Christian Trade Union of Congo.

²²² KII 9 Côte d'Ivoire - Save the Children.

or aware of the processes and services available to them for the protection of their rights. It is important, therefore, to minimise barriers that prevent migrants, particularly the most low-skilled among them, from critical information on their rights' protection and welfare. The fact that labour migrants across Africa are being reported as having started to gradually have increased understanding of these processes is an important step in the right direction.

Migrant workers in **Kassala**, Sudan, for example, have been organising themselves in associations based on their work sector, such as the Association of Agricultural Workers, the Association of Domestic Workers, and the Association of Market Workers. However, these are fragile associations, with the connections that they forge resembling social ties more than actual protective networks for migrants in their work.

An example of how a labour related incident was addressed and resolved with the help of an association and a union is explained in the excerpt below:

An [Ethiopian immigrant] member of the Association of Migrant Agricultural Workers in our region managed to improve his condition and transformed from an agricultural worker to a farmer. He rented a farm but his partner in the farm became oppressive, and took his right to water, but he was afraid of entering in a legal conflict with his partner because his partner is a Sudanese citizen. He came to the Association and complained about the injustice he was subjected to. One of the members of the association sought help from me in order to find a solution.

We agreed that we would meet in the market in order to go to the Sudanese partner and find out the dimensions of the problem. When we went to him, I found members of the Sudanese Farmers' Union with him, who had defended the rights of the Ethiopian immigrant, the problem was solved before we reached.

► KII 1 Sudan - Ministry of Labour

► Box 4. Harmonising work permit and resident permit fees and waivers

In 2017 the Republic of Tanzania had harmonised the issuing of work permit fees, under the direct influence of EAC policies, to facilitate the Common Market Protocol implementation. The presence of different work permit- and resident permit fees has been understood as presenting a barrier not only to the free movement of workers, but also to their regularisation and socioeconomic integration.

Good practice: Regularising and integrating migrants

Seven of the 14 countries under review – namely, Cameroon, DRC, Egypt, Ethiopia, Morocco, Nigeria, Sudan, and Zimbabwe – have systems in place whereby **irregular migrants can regularise their status**. In four countries - Algeria, Ethiopia, Sudan, and Zimbabwe – migrants can go through a **process to appeal against their possible expulsion**.

In **Morocco**, the role of CSOs was key in ensuring progress was made on the regularisation of irregular workers. The work of GADEM, a human rights organisation defending foreigners and migrants, as well as that of the transnational non-profit Fondation Orient-Occident (FOO) together

with the National Human Rights Council of Morocco has led to a series of regularisations. Their work has also led to a broader mindset shift, and the realisation, through research and advocacy, that migrant workers' rights must be recognised and defended. In this context, in recent years, positive trends have included wages for labour migrants from Morocco: wages for women in domestic work increased from approximately 112 USD in 2010 to approximately 400 USD in 2021. Similarly, as a result of intense lobbying in **South Africa**, the minimum wage has been established at R.20.70.

Countries have often sought and found **individual solutions to address the irregular status of migrant workers**.

In Zimbabwe, increased efforts at stepping up the issuing of related documentation has led to many migrant workers becoming documented and obtaining legal protections and access to various services that were previously unavailable to them. In Morocco, the National Strategy of Immigration and Asylum has brought positive changes for legal labour migrants concerning their access to rights, the inclusion of migrant children in public schools, and migrants' free access to primary health care. The new migration policy paved the way for the processes of Regularisation of Migrants in 2014 and 2017. Another example of good practice in Morocco involves foreign workers who enter the country illegally for reasons other than work, for example for transit or tourism, but fail to return and decide to stay and work instead. In order to legalise their stay and work, the government has resorted to what is referred to as "reconciliation" in legalising the status of an immigrant.

A.9 Limited involvement and buy-in from the business community and employers' organisations

The business community is a central actor in the global demand for labour as the employment prospects they generate function as a major pull factor for migration. They are, therefore,

in a particularly favourable position to affect meaningful and sustained change throughout the migration cycle, either by using their leverage and advantageous engagement with policymakers and other key stakeholders to effect change, or through the taking of individual action. Areas in which the business sector's involvement could prove particularly impactful on reducing the vulnerability of migrant workers include the promotion of fair recruitment, the improvement of labour standards across their supply chains, the development of policies that would help ensure the protection of migrant workers in their supply chains; and actively engaging with relevant stakeholders to influence key systemic issues leading to the persistent risks faced by migrant workers²²³.

A 2020 ECDPM review of private sector engagement throughout the migration cycle²²⁴ reiterates on the above, by distinguishing between the different roles that the business community can play in support of labour migration governance. On the one hand, it is mentioned that it falls under the private sector's role to provide services on behalf of governments, and fulfilling other migration management goals in partnership with them. Transportation providers, private companies involved in border management, technology firms, and privately run information centres are mentioned as being a few among the key private stakeholders in this system. On the other hand, private sector actors' role as employers and job creators is reiterated, both for migrants, and for host communities. Moreover, investors are identified as having specific incentives to promote labour migration and strengthen migrant inclusion. The report proceeds to identify the critical role that the private sector can play in ensuring ethical and sustainable recruitment practices that can safeguard decent employment, and respect for migrants' rights.

To date, however, the buy-in on these practices from the business community and employers' organisations has been limited, and their reaction has been based almost entirely on risk avoidance. Such reactive approaches that do not examine the

²²³ BSR (2008) *International labour migration: A responsible role for business*.

²²⁴ Bisong, B. A. and Knoll, A. (2020) 'Mapping private sector engagement along the migration cycle', *ECDPM*.

labour migration system as a whole and address the root causes of the systemic issues that beset it, are bound to be ineffective and have limited impact on issues that are global in scope²²⁵. In recent reviews of business and private sector engagement for the promotion of fair practices, notably in recruitment, most initiatives are found in Asia, rather than Africa. Here, codes of conduct elaborated in Cambodia, Vietnam, Sri Lanka, or Myanmar^{226,227}, can provide a precedent for AU member states to follow.

In this direction, the **MPFA (2018-2030)** calls for **enhanced cooperation between government authorities, worker organisations and employment associations, as a key to building national capacities to manage labour migration.**

It specifically calls for employers and the business communities to be consulted in developing labour migration strategies.

Study participants broadly agreed that most employers are not active in raising awareness on or advocating for migrant workers' rights. Employers' unwillingness to work towards the increase and refinement of regulations, often leaves workers vulnerable. Out of the 52 responses received during the ALMS 2021, only seven were from employers' associations, as opposed to 24 from government, and 21 from workers' organisations. While employers are involved, to the extent that they provide work permits for their foreign workers for instance, their involvement rarely goes beyond this minimum requirement.

Good practice: Involving financial institutions and employers throughout the migration cycle

In **Uganda**, data collected for this research indicate the **contributions of labour migration to development.** In 2020, remittances received from migrant workers were second in size in terms of foreign exchange, based on data that the Ministry of Finance obtained from the Central Bank²²⁸. This, in turn, led to requests by the Government to have recruitment companies register with the Central Bank to monitor the numbers of migrant workers abroad, and follow the flows remitted back to the country. This has resulted in the realisation that **banks should be further involved in the pre-departure stage of migration, as well as post-return, through the registration of migrant workers, and by offering support to their associations.**

Several key informants have reiterated the need to work with financial institutions to ensure that migrant workers can easily send their money home, yet in most of the destination countries, migrant workers' access to financial institutions is severely restricted. Transnational collaboration on this topic – between Uganda and Arab countries of destination, for example – can allow the launch of a system that may facilitate the sending of migrant workers' remittances to their home countries.

Similarly, to ensure the protection of Ugandan migrant workers abroad, and in accordance with the Rules and Regulations Governing the Licensing,

► **Box 5. The IRIS standard: a multi-stakeholder voluntary initiative**²³⁰

The International Recruitment Integrity System (IRIS) was set up to ensure a system for the accreditation and monitoring for international labour migration. It was developed by the IOM, with one of its aims being to create a public-private alliance of governments, employers, recruiters, and other partners in order to make international recruitment fair for everyone involved, including migrant workers, employers, recruiters and countries of origin and destination. Other components include the move towards a voluntary accreditation system, an information portal, and complaints and referral mechanisms to assist victims of unethical labour migration practices. Such a system could be envisaged or replicated in the context of the AU, or within the RECs.

²²⁵ Ibid.

²²⁶ ILO/ITC (2018) 'Business and private sector engagement for promoting fair recruitment. Training toolkit on establishing fair recruitment processes.'

²²⁷ ILO (2017) 'Tripartite action to protect migrants within and from the GMS from labour exploitation - Final Evaluation'.

²²⁸ KII 6 Uganda - Ministry of Gender, Labour, and Social Development.

Recruitment and Employment of Ugandan Migrant Workers Abroad, Statutory Instrument No. 62 of 2005²²⁹ **negotiations are initiated with employers through quadripartite agreements.** What this means in practice is that when a migrant worker signs a contract, there are four parties involved: the recruitment company in Uganda, the migrant worker, the recruitment company in the destination country, and the employer.

The four are responsible for the welfare and protection of the migrant worker, in theory, although in practice, informants have noted that lines of responsibility could be more clearly outlined.

A.10 Gaps in the migration cycle: Pre-, during-, and post-departure preparedness of migrant workers

At the pre-migration stage, awareness raising programmes mainly focus on information on workers' rights, illegitimate recruitment practices, and the dangers of irregular migration, including the risks of human trafficking. Such training aims to equip migrants with necessary details and facts regarding their countries of destination, and the prevalent employment conditions and practices within them, so they can be in a position to make informed decisions throughout their travel and stay there. Some returnees act as facilitators in these programmes, sharing their experience, and responding to inquiries from prospective migrants. Some training programmes also include language and practical job skills training.

However, the study respondents point to limited support during and post-departure for migrant workers, showing gaps in critical phases of the migration cycle. Following migrants' arrival at their destination country, support is much more limited. Some countries require additional training before a migrant can be employed, and migrants may receive training, language classes and general information sessions to familiarise

themselves with the culture and practices at their destination, but this is not often the case. Diaspora associations in destination can also play a role in integration through practical information and assistance based on their lived experience²³¹.

► Box 6. Women migrant workers in seasonal migration: "Countries involved in this labour migration win, while women lose"²³²

The seasonal migration of Moroccan women migrants to Spain is a case study that our informants explored for two reasons. First, in terms of their implications on the pre- and during- migration phases. Learning from prior migration from Eastern Europe and Senegal to Spain, the Government of Morocco had already improved some of the frameworks governing this seasonal migration. However, as cases of exploitation and harassment came to the fore, the need to clarify the legal instruments has become clear. One academic recommended that a convention between two States regulating migration is insufficient, and especially in the case of women migrant workers, an accompaniment in the location of migration is needed, to monitor and ensure that labour standards are met in terms of salary and wage payment, as well as decent work conditions. Second, for the implications on the return or post-migration phase. The same level of accompaniment is required upon return, to help women find their autonomy, and build on their migration to find a future for themselves locally, if they choose. A program set up by the IOM, called ORION, has shown that case management support to returning migrants in Morocco and other pilot countries greatly contributes to higher reintegration scores²³³.

KII 1 Morocco - French National Centre for Scientific Research (CNRS)

²²⁹ ILO (2005) Rules and Regulations Governing the Licensing, Recruitment and Employment of Ugandan Migrant Workers Abroad, Statutory Instrument No. 65.

²²⁵ Ibid.

²³⁰ ILO/ITC (2018) 'Business and private sector engagement for promoting fair recruitment. Training toolkit on establishing fair recruitment processes.'

²³¹ Agunias, D. R. and Newland, K. (2012) *Engaging the Asian diaspora, MPI Policy Briefs*.

²³² KII 1 Morocco - French National Centre for Scientific Research (CNRS).

²³³ Samuel Hall/IOM, (2020) *Mentoring returnees: Study on reintegration outcomes through a comparative lens*.

Good practice: Skills portability as a development opportunity.

Skills portability – the employable skills which can be used productively in different jobs, occupations and industries²³⁴ – is crucial in reducing the growing gap between skills needed in countries of destination, and skills available in countries of origin, and in increasing employment rates across the continent.

As noted earlier in this research, women migrant workers’ skills are particularly susceptible to ‘non-portability’, which leads to women’s deskilling, ‘brain waste’, and mismatching between their acquired qualifications and their actual employment. This correlates with the significant observed overlap between being a woman, a migrant, working in the informal economy, and being poor²³⁵.

Women migrant workers, therefore, can benefit greatly from the improvement of their skills’ portability among their host and home countries. Skills portability has been found to contribute to human development, as it empowers people, enlarges individual workers’ choices and capabilities, and helps workers to make full use of their talents and skills²³⁶.

Regarding home countries, the transferability of the knowledge and qualifications migrants gain abroad and bring back to their counties of origin plays a critical role in local processes of development. Mutual certification and recognition of skills can further support migrant workers in skills transferring, and in gaining skilled employment through the leveraging of their newly acquired skills, either abroad or at home.

A significant barrier to ensuring that skills are effectively matched among African states is the prevalence of non-recognition, non-comparability, or non-compatibility of skills and qualifications²³⁷.

Common challenges that RECs face in enhancing skills portability are outlined in Table 10 below.

Other notable improvements have been noted in this area. For example, EAC Member States have signed four Mutual Recognition Agreements for architects, accountants, engineers, and veterinarians between 2011-2016²³⁹. While implementation challenges persist, and Kenya remains the dominant country in the region in terms of labour exported²⁴⁰, this is still a positive step in the right direction that other RECs can draw lessons from.

Some countries such as **Kenya** and **Ethiopia** have officially included obligatory pre-departure orientation programmes (PDOs) for labour migrants intending to travel to the GCC countries. Pre-departure training sessions teach sector-specific skills needed for jobs, while also covering migrants’ labour rights, as well as various cultural, legal, logistical, and practical skills that they will need at their destination. For women migrant workers, training sessions are offered on domestic work and caregiving, whereas men are offered orientation on driving and construction-related work.

Further, employers in the destination countries should also be sensitised on what to expect from the employment partnership, as well as cultural differences that might emerge between them and their foreign employees²⁴¹.

► **Table 10: Common Challenges Concerning the Enhancement of Skills Portability for Migrant Workers²³⁸**

Difficulty in comparing qualifications within RECs.
Weak coordination among different RECs.
Lack of relevance to market needs of Technical and Vocational Education and Training (TVET) programmes.
The dominance of the informal sector impedes the planning ability of labour institutions.
Overlapping REC memberships among the several African States.
Gender barriers to accessing TVET programmes.

²³⁴ ILO (2004) ‘Human Resources Development Recommendation No.195’.

²³⁵ IOM (2012) ‘Crushed Hopes: Underemployment and deskilling among skilled migrant women’.

²³⁶ ILO (2007) *Portability of skills*.

²³⁷ Werquin, P. and Panzica, F. (2019) *Migrant workers’ skills portability in Africa at regional economic community and continental level. Guidance towards an African qualifications’ framework?*

²³⁸ Adapted from Werquin and Panzica (2019).

²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ Samuel Hall (2021) ‘IOM harmonisation of pre-departure orientation profiles in 10 EH0A countries.’

In Kenya, the National Industrial Training Authority (NITA) is a state corporation mandated to prepare courses, evaluate tests, issue government trade test certificates, and accredit institutions engaged in skills' development for labour migrants. In **Morocco**, the National Agency for the Promotion of Employment and Skills (ANAPEC) plays an intermediary role in the Moroccan job market in facilitating, free of charge, job seekers' access to both the internal labour market as well as abroad, with a special focus on youth. The national employment agency in Cameroon organises trainings for prospective labour migrants on a range of topics and processes that would be useful for them to be aware of. These pre-departure orientation programmes are an important source of information for prospective labour migrants, while they also help orient and strengthen skills' acquisition processes.

Uganda implements a detailed process for giving migrant workers clearance, according to information received for this assessment. The broad array of requirements includes, among others, the acquisition of a certificate of good conduct and letters from an attorney; holding an approved job order, as well as an employment contract stating the terms and conditions which must meet the international labour standards; the attendance of pre-departure training on their job's technical specificities, and on the country's cultural context; and the existence of a service agreement between the recruitment agency in Uganda and the receiving RA abroad. Upon process and worker verification completion, a clearance form valid for four months is issued.

Lastly, the **Federation of Kenyan Employers** (FKE) has foreign companies among its members and provides information on Kenyan labour laws and labour issues to them, while the companies, in turn, disseminate this information to their foreign employees²⁴². Some destination countries

including **Netherlands, Germany** and the **UK** have introduced pre-departure integration requirements for migrants as part of their integration process²⁴³.

A.11 Unavailability of social protection and portability of social benefits

Although social security is a basic human right enshrined in major international instruments, and lies at the heart of the 2030 Agenda, underscoring the role that social protection has in achieving sustainable development and leaving no one behind, migrant workers still face significant challenges in accessing social protection due to the particularities of their living and working circumstances. They are, thus, facing the risks of losing their entitlements to social security benefits in their country of origin, while facing significant restrictions, as already noted, in their access to social protection in their host countries, while their dependents remain ostensibly excluded from any provisions. African migrant workers face significant challenges in accessing social protection when working in other AU member states.

There is, therefore, **a great need to establish and strengthen social protection systems across Africa, and for the steering of both host and sending countries towards upholding migrants' human rights to social security and life in dignity, while contributing to reducing poverty and inequality, and in facilitating migrants' return and the sustainable reintegration**. The ALMS 2021 data reveal a lack of coherence in social protection systems, and gaps across various components of social protection in the focus countries.

²⁴² ILO (2020) *An assessment of labour migration and mobility governance in the IGAD Region. Country report for Kenya, Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility*.

²⁴³ Bonjour, S. (2014) 'The transfer of pre-departure integration requirements for family migrants among Member States of the European Union', *Comparative Migration Studies*, 2(2), pp. 203–226.

► **Table 11: Countries with social protection systems**

Country	Social insurance	Mandatory savings scheme	Social assistance	Universal benefits	Employee schemes	Other	None of the above ²⁴⁴
Algeria	yes	no	no	no	no	no	no
Cameroon	yes	no	no	no	no	no	no
DRC	yes	no	no	no	no	no	no
Egypt	-	-	-	-	-	-	-
Ethiopia	no	no	no	no	no	yes	no
Côte d'Ivoire	yes	yes	no	no	no	no	no
Kenya	yes	no	no	no	no	no	no
Morocco	yes	yes	yes	yes	no	no	no
Nigeria	yes	yes	yes	no	yes	no	no
Somalia	no	no	no	no	no	no	yes
South Africa	-	-	-	-	-	-	-
Sudan	yes	yes	no	no	no	no	no
Uganda	-	-	-	-	-	-	-
Zimbabwe	yes	yes	yes	no	yes	yes	no

The gap in social protection schemes for migrant workers is partly explained by a number of challenges across several domains:

- First, *structural issues*: Numerous African governments are developing systems of social protection that are focused on expanding the quality and range of coverage for their own citizens first; very few social protection mechanisms explicitly provide for or consider the needs of non-nationals, including migrant workers.
- Secondly, *seasonal migration*: A large proportion of migrant workers engage in seasonal work, making it harder for them to qualify for social protection²⁴⁵.
- Third, *informal and undocumented workers*: Some migrant workers are in the informal sector and are undocumented. They could also be semi-literate or illiterate. Their immigration status puts them at risk of being in a country illegally and without access to social protection. Research suggests that immigrant regularisation policies improve labour market opportunities for undocumented migrant workers in host societies – particularly those engaged in the informal economy.
- Fourth, *pandemic effects*: The COVID-19 pandemic has left migrant workers extremely vulnerable as they were often the first to lose their jobs, while they have been reported to face significant barriers in accessing testing or treatment²⁴⁶. The gaps in migrant workers' social protection highlights the need to ensure that coverage is available for all workers regardless of temporality, residence, or nationality²⁴⁷.

²⁴⁴ ILO (no date) Extending access to social protection and portability of benefits to migrant workers and their families in selected RECs in Africa.

²⁴⁵ ILO (2019) Ensuring Access to Social Protection and Portability of Social Security Rights and Benefits for Migrant Workers and their Families.

²⁴⁶ AU (2020) 'Protecting migrant workers in the informal economy: Inclusion of migrant workers in COVID-19 responses'.

²⁴⁷ Ibid.

Addressing and eradicating these challenges and establishing social rights' transferability would benefit all AU countries, and their migrant citizens, and should thus be highly prioritised on the agenda for labour migration frameworks.

► **Table 12: ALMS 2021 Key results on social protection and portability of social benefits**

ALMS Key results - responses by 24 government representatives	Related Graphs
Although coverage tends to be narrow, Africa has seen improvements. AU countries report having social assistance schemes — 26 percent, and social insurance — 54 percent. Less common protection mechanisms are employer schemes — only 11 percent reported having one.	Table: 19; Figure: 52, 53, 53
Among the focus countries of the Legal Analysis, nine reported having social insurance systems, and three reported having social assistance systems. In practice, the scope and effectiveness of these systems might be limited. However, it is important to note that steps are being taken in the right direction.	Table: 19
The scope of social protection systems in Africa tends to be narrow. Figure 55 summarises who has social protection rights among a country's population. Notably, public schooling for children, housing for agricultural workers, maternity, and employment injury benefits are available to all workers.	Table: 20; Figure: 55
Results suggest that social protection rights are not reserved for nationals. When available, benefits are enjoyed by most workers that participate in the formal economy, including migrants. The gap in protection is explained by differential access to formal employment opportunities between nationals and migrants.	Table: 20; Figure: 55
On the portability of social protection benefits, only 17 percent of countries report allowing migrant workers to maintain acquired rights in case of a move or return. In several countries, 37 percent, migrant workers have access to earned benefits as long as they stay in the country. Most countries do not allow migrants to accumulate rights if work is carried out in other countries for a period of time.	Table: 21, 22; Figure: 56, 57
Labour protection mechanisms set standards that aim to ensure safe and fair working conditions. Survey results indicate that countries either tend to have a broad set of labour protection standards or none — approximately 35 percent of countries report having them.	Table: 24; Figure: 61, 62, 63

Good practice: RECs advancing social protection policies through collaborations with the ILO

Despite the previously mentioned challenges to social protection, positive developments have occurred among RECs, which have sought to advance social protection policies for migrant workers through their collaboration with the ILO. This has resulted in ECOWAS improving the implementation of its General Convention on Social Security (2013), and the EAC building on their capacity and knowledge base to improve regional coordination for greater access to social protection for migrant workers.²⁴⁸

Research in the past few years has, however, also highlighted the importance of allowing for the portability of social security benefits, which remains a key gap in social protection (Box 6)²⁴⁹. However, several RECs are falling behind (Table 12), while very few RECs have or are in the process of developing social protection frameworks. There is an opportunity for RECs to learn and emulate best practices from frontrunners in this area, yet the risk that RECs do not develop social protection frameworks in tandem with their national counterparts remains. This can result in the persistence and expansion of challenges related to the portability of rights and protections for migrant workers in the future.

²⁴⁸ ILO (2019) Ensuring access to social protection and portability of social security rights and benefits for migrant workers and their families.

²⁴⁹ Wits/OSF/Samuel Hall (2018) Free and safe movement in East Africa. Research to promote people's safe and unencumbered movement across international borders.

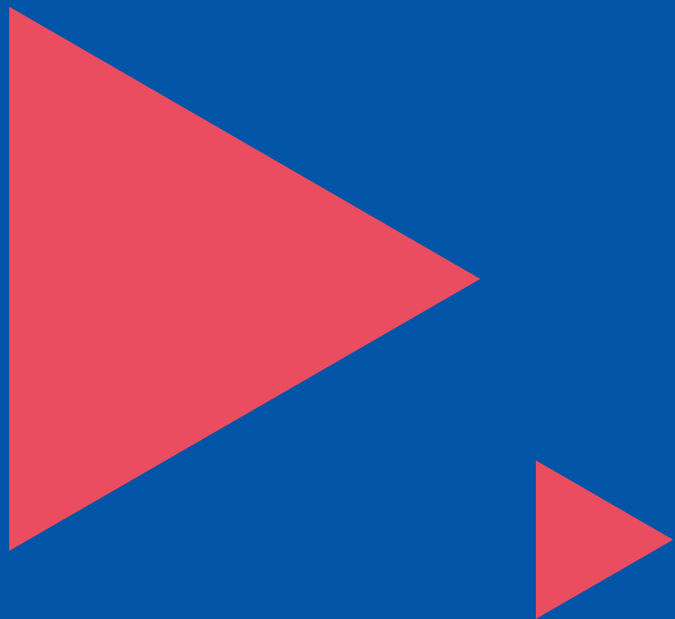
► **Box 7. Portability of Social Security**

Portability of Social Security is defined as “the migrant worker’s ability to preserve, maintain, and transfer acquired social security rights independent of nationality and country of residence.”²⁵⁰ This remains a key gap in ensuring access to social protection and rights for labour migrants in African countries. While this may be due to both bureaucratic and political reasons, the result is that migrant workers struggle to make plans and provisions in the long term, as lack of social security portability can impede the ability of legal labour migrants to contribute sustainably to personal or overarching development. This is one area where regional cooperation and leadership from RECs actors could be key: one report highlights for instance the potential that SADC could have to advocate with its member state countries to put in place harmonised measures which ensure this.

²⁵⁰ Ibid.

▶ 5

▶ Conclusions and Recommendations



A shared vision for sustainable and equitable labour migration frameworks in AU Member States

The review of current legal frameworks concerning the regulation of labour migration across Africa indicates that labour migrants do not receive adequate nor equal protections. As a result, as prior research has also indicated migrant workers have become akin to other sourced commodities, with a premium on price over rights and protections²⁵¹. Systemic change is required to create the conditions under which labour migrants can safely move between their origin and destination countries and contribute mutually to the development and growth of both, as well as their own, and their families' livelihoods. This study concludes on several key findings and recommendations to RECs and AU Member States. If adhered to comprehensively across all governance levels involved in the management of labour migration, these conclusions would contribute significantly to the improvement of prospects for sustainable and equitable frameworks for labour migration across the continent.

The messages presented below were distilled through the wealth of quantitative and qualitative material that this study collected with the consultation of key informants representing prominent stakeholders, statistical research, and a comprehensive legal and literature review and analysis. The concluding remarks, aside from conjuring a detailed picture of the legal and institutional architecture of labour migration, and how its various components articulate across governance levels, have the potential of setting a **collective vision and roadmap for the coming years for the AU Member States to take forward on labour migration standards**, individually, and - most importantly - in collaboration with member states and RECs.

A. Findings on legal frameworks and on cross-cutting themes

A.1. Cooperation

The complex processes underpinning the management of labour migration under conditions of globalisation cannot be adequately addressed by individual countries. Cooperation between multiple stakeholders with vested interest in these issues is considered to be the optimal approach towards capacity building on labour migration governance. The list of actors involved in the processes this study focuses on includes international organisations, governments (national, federal, and local), employers' and workers' organisations, various NGOs and CSOs, as well as the civil society and other grassroots organisations. These stakeholders engage in discussions and consultations in various configurations, and at different scales. Their discussions target the upholding of migrants' rights, and making migration safer for them, especially for the most vulnerable among them, including women, youth, and low-skilled or undocumented workers, as they often fall victims of actors with asymmetrical power over their employment and overall life conditions.

Among those, **the role of RECs in the modulation of labour migration frameworks has been especially pronounced, even if the level of implementation of their various components varies among their Member-States. Their capacity, as actors at an intermediate level, to tap into local exigencies and link them with the priorities of neighbouring states is a major asset in making joint, even if slow, progress towards regional integration and coordination on labour migration standards and other areas of cooperation.**

²⁵¹ BSR (2008) "International Labor Migration: A Responsible Role for Business".

Several non-governmental actors are also actively involved in the implementation of labour rights in a collaborative manner with governments and other stakeholders, aiming to bridge the gap between policy and ground-level implementation and monitoring. Such cooperative schemes between governments, recruitment agencies and other stakeholders is important for oversight and streamlining of labour migration.

Together with hosting countries, sending countries also have an obligation to support their citizens working abroad at every step of their journey. This can be undertaken through a broad range of leverage mechanisms available to them - from BLAs, combating exploitative recruitment practices, pre-departure orientation courses, post-arrival consular assistance programs, and even unilateral measures to fill gaps in social security coverage.

The AU and the RECs are leading efforts in collaboration with their Member States in the formulation, signing and implementation of migration/labour migration policies and agreements. Frameworks that allow for harmonisation and transferability of social security benefits for migrants have been reported, although, due to the different regional dynamics the degree of implementation of labour law standards is at variable levels.

A pronounced data shortage has been noted, however, regarding reliable and nuanced statistics on labour migration as a basis for analysis, debates, and decision-making at a regional and national level. This issue, similarly, cannot be tackled by any one country individually, and synergies must be developed between different actors with complementary know-hows, such as that between the COMESA and Statistics Sweden to address it.

A.2. Human rights and labour standards

The exploration of how the application of human rights and labour standards is envisioned in theory, and how it materialises in practice indicated significant divergences between the two. The degree of accessibility of those rights and standards, and of migrant

workers' ability to secure and maintain lawful stay and employment in host countries varies notably between national settings. This bears direct effects on the protections and means of representation afforded to different groups of migrant workers, especially the most vulnerable and underserved among them.

Despite the extensive volume of legal standards on labour and migration, and the several rights and obligations accruing from them, there are glaring disparities between the prescribed rights of migrants under international law, and their everyday reality in the countries where they live, work or travel through. Migrant workers' access to social services and protection systems, and their ability to seek remedy for violations of labour, employment and social rights is also found to be limited.

States' administrative or financial incapacity and lack of technical and other means to that would allow effective planning and implementation of remediation measures is often presented as a reason for the notable disparities in the inclusion of migrants to service provisions, as well as for the limited awareness that migrant workers have about existing services how to access them.

Mechanisms of migrant representation were found to be highly fragmented across African States, with each country applying different sets of guidelines on the exercise of political and labour-related representation rights of foreign citizens according to their national laws and undersigned international obligations. Therefore, the importance of establishing a stepwise cycle of safeguarding mechanisms for the protection of labour migrants is underlined. Such an approach would cover each migration stage: from pre-departure training, migrants' equality of rights, and their efficient representation in host countries, to ensuring their repatriation under fair terms.

Among the broad range of stakeholders involved in the implementation of labour standards and the monitoring of human rights' upholding across AU Member States, the role of NGOs and CSOs merits particular attention. Our material indicates that the high degree of

fragmentation and differential implementation of labour law standards within and between national and international contexts, the role of CSOs and NGOs is particularly important in the direction of awareness-raising, advocacy, representation, and rights' protection for migrant workers.

Special consideration must also be given to the fact that, although protections and provisions are accessible to lawful migrants, albeit to a variable extent, **undocumented migrants, youth, women, and low-skilled labourers are consistently relegated into further vulnerability regarding their rights and dignity.** As a rule, they are not able to access nor enjoy many of the rights stipulated in international law, and are thus left multiply exposed to rights' infringement, injustice, and exploitation.

Greater emphasis should also be placed on ensuring that the laws and policies effectuated at each governance level embrace the lived realities of all migrants: those in irregular situations, youth, women, and other groups affected by intersectional disadvantage. Everyone's rights should be protected, and the aspiration of minimising migration's negative impacts for all should permeate policymaking. It is, therefore, imperative that African countries address these practical challenges to legal labour migration, and that the development of fair and transparent frameworks facilitating legal pathways to their domestic labour markets should be set as an immediate priority, in accordance with the stipulations of international, continental, regional and bilateral standards and human rights principles.

A.3. Gender and empowerment

Findings have underscored the different realities faced by vulnerable migrant workers, as already noted. **Women find themselves at a pronounced disadvantage due to the inherent attributes of gendered migration dynamics. Securing livelihoods for themselves and their families within the unfavourable circumstances that commonly characterise these sectors is a longstanding challenge for them.** These setbacks are becoming increasingly pronounced through the local effects of global processes pushing for the growth of the informal economy

and of informal, casual and poorly paid work, as well as the increase of labour insecurities and poor livelihood outcomes for vulnerable populations in Africa that sets women up for exploitation, abuse and gender-based violence, particularly within certain sectors, such as domestic workers, and at certain destination countries, such as the Middle East and GCC. Women migrant workers' precarity has also been thrust further into focus during the COVID-19 pandemic, which has impacted women unequally through loss of their employment and income, as well as through their elevated viral exposure, their reduced access to healthcare, and their increased subjection to sexual- and gender-based violence. Underscoring these angles, this study has indicated gender-specific barriers that may deter access to complaint, redress and justice mechanisms, and other means of protection and advocacy for women. Thus, an urgent need is identified to address these issues by safeguarding the upholding of fundamental human rights, and by advancing gender equality and empowerment among women generally, and women migrant workers.

A.4. Climate and seasonal migration

The migration and climate nexus are of particular importance in Africa, as climate-related migration and seasonal labour mobility, which is closely connected to it, constitute two of the key mechanisms for adaptation and livelihood safeguarding for local communities faced with the challenges posed by the climatic and environmental changes. Labour migration in all its facets and through any available means, emerges as a key strategy for the mitigation of negative impacts of socioeconomic lock-in for these populations.

Addressing the social impact of climate- and seasonal migration in Africa involves different policy fields for example, climate change, migration, development cooperation, labour, urban planning, humanitarian aid, rural development among others. Efforts for international coordination on these themes at a global and regional scale are fragmented and comprehensive frameworks have yet to emerge. Focusing on the social dimension of climate-related migration is important from a development and social justice perspective.

At the time of this assessment, and for the vast majority of the selected country participants, **climate change and its influence on seasonal migration does not appear to rank highly on their national policy agenda.** However, within the broader context of migration being considered as a sensitive security issue in many countries, data has indicated that several stakeholders have begun to acknowledge the heightened risk that climate-related migration poses as a security threat to their internal stability and international relations. There is an opportunity to build on examples such as the establishment of a Thematic Working Group on Climate Change, Land Degradation, Desertification, Environment, and Migration by MIDWA and IOM, and the establishment of the National Migration Policy in Ghana, which regards migration in the context of environmental and climate change as a strategic area for intersectoral/inter-ministerial collaboration²⁵². Beyond domestic collaboration, bilateral country visits and regional engagement can ensure such initiatives can be replicated in other member states and RECs.

B. Recommendations at the regional and national level

AU Member states have a responsibility to adhere to international standards and the ratified conventions and protocols, to coordinate and facilitate the implementation of labour migration law and safeguard the fundamental human rights of every person within their territory without discrimination on any ground. Among the areas warranting special attention, this assessment agrees with previous ILO conclusions concerning fair and effective labour migration governance²⁵³, and future priorities. Key recommendations resulting from the findings of this assessment's four themes are detailed below, before going into the priority recommendations at the legal, policy and technical levels.

On cooperation, effective coordination, and synergy among all relevant actors at the international, national, as well as subnational level, has to be at the heart of future strategies. The scope and importance of these challenges makes the need for heightened regional cooperation in labour migration management apparent. At the same time, national governments need to exhibit political will and be keen to learn from each other and consolidate best practices to improve the security and safety of migrant workers and contribute to the socioeconomic development of sending and receiving societies.

On human rights and labour standards, Greater emphasis should be placed on **ensuring that the laws and policies effectuated at each governance level embrace the lived realities of all migrants:** those in irregular situations, youth, women, and other groups affected by intersectional disadvantage, and that they protect everyone's rights and aspire to minimise migration's negative impact for all. It is, therefore, imperative that African countries address these practical challenges to legal labour migration and set as an immediate priority the development of fair and transparent frameworks facilitating legal pathways to their domestic labour markets in accordance with the stipulations of international, continental, regional and bilateral standards, and human rights principles.

On gender, it is imperative to **implement gender-responsive legal and policy interventions with the aim of improving the working and social conditions faced by women migrant workers and facilitate their potential contribution to inclusive growth both in their home and host societies, in the direction of structural transformation across Africa.** It is necessary to ensure that women are empowered by law, policy, and practice to migrate safely and work under decent conditions.

²⁵² Deutsches Institut Entwicklungspolitik (2019) *Human mobility in the context of climate change in Sub-Saharan Africa – Trends and basic recommendations for development cooperation*. 12/2019.

²⁵³ ILO. "Resolutions and Conclusion Concerning Fair and Effective Labour Migration Governance," 2017.

To achieve this, along with the necessity to improve the ratification and domestication of international legal standards, the coordination between the actions of different stakeholders, the strengthening of policy coherence, the promotion of gender-responsiveness and sensitivity in the governance of labour migration, women themselves should be more included in the design of policies related to the advancement of their rights.

On climate-related and seasonal migration, the importance and relevance of climate-related and seasonal migration in the African context needs to be acknowledged and raised across relevant policy agendas, as climate-related migration and seasonal labour mobility constitute two of the key mechanisms for adaptation and livelihood safeguarding for local communities faced with the challenges posed by the climatic and environmental changes. **Commitments need to be made at different policy and governance levels regarding those pressing issues, and the underlying principles, rights, and best practices in terms of climate-related migration.** These commitments should, in turn, be translated and implemented within national frameworks that should adapt and strengthen their existing policies, strategies and legislations to reflect agreements at the global level, while also ensuring solid monitoring and evaluation mechanisms. Enhancing international cooperation to effectively address these challenges, and increasing participation in relevant global and, especially, regional multilateral discussions is strongly encouraged.

B.2. Priority recommendations

At the legal level, recommendations include the following priorities:

- **Alignment with laws, instruments, and protocols**
 - » Align national laws to international laws on migration
 - » Harmonise and align migration-related protocols across the RECs/AU
 - » Safeguard fair recruitment processes to reduce migrant workers' exposure to abuse
 - » Refine and further develop labour migration policies in countries where they are considered to be deficient or absent, in accordance with international instruments
 - **Facilitate systemic change**
 - » Strengthen the role of bilateral agreements in facilitating safe, regular and orderly labour migration
 - » Set-up national coordination mechanisms on migration and labour migration
 - » Domesticate and implement signed agreements
 - » Facilitate skills portability systems at regional levels and the portability of social security benefits, including the equality of treatment within social protection systems. The extension of access to social protection benefits to migrant workers and their families may require the revision of national labour and social security laws and the inclusion of certain occupations.
- At the policy level:**
- **Resource planning**
 - » Plan for the financial, human, and technical resources to enhance labour migration at the regional and continental level
 - » Advance social protection policies through collaborations with the ILO
 - » Provide temporary and flexible work schemes
 - **Engagement and financial assistance**
 - » Fund local associations to facilitate the safe and protected movement of people and cross-border trade
 - » Involve financial institutions and employers throughout the migration cycle
 - » Engage with diaspora communities to liaise with migrant workers in destination countries
 - » Enhance the freedom of association of migrant workers as a fundamental right
 - **Regularisation and Harmonisation**
 - » Strengthen and align regional and national governance frameworks

- » Regularise migrant workers' legal situation and invest in their integration
- » Assess and harmonise gender inclusion in migration policies
- » Harmonise certificates and facilitating the smooth movement of persons within regions and, eventually, within the continent

At the technical level:

- **Technical assistance**

- » Facilitate technical assistance to MS assist in the formulation and implementation of migration policy
- » Plan for bilateral country visits and cross regional learnings on climate change and migration, and how to incorporate climate-related forecasts into national labour migration plans
- » Build the capacity of staff in the government/private sector on migration related issues
- » Assist government representatives (labour attachés) and employment agency agents at destination
- » Further develop pre-departure training courses for prospective labour migrants, to be revised at regular intervals to reflect ongoing changes in policies, skills, cultural and other specificities regarding hosting countries
- » Strengthen the reception systems that already exist

- **Data, knowledge management and monitoring**

- » The collection of reliable, comparable, and disaggregated labour migration data to guide evidence-based policymaking and evaluation
 - ◇ Collect comprehensive migration data on migrant workers to plan and cater for EAC's specific needs
 - ◇ Collaborate on statistics and data frameworks at regional and national levels
- » Ensure accurate skills' assessment and recognition
 - ◇ Offer possibilities for upskilling and retraining both migrants as well as local populations
 - ◇ Document skills transfer between migrant workers and locals

- ◇ Create a platform to access required skills in different countries to inform labour migration
- » Safeguard implementation through solid monitoring and evaluation mechanisms
- » Ensure that independent monitoring bodies, national, regional, and international human rights mechanisms, ombudspersons, national preventive mechanisms and other relevant stakeholders can effectively monitor, report and take action regarding the implementation or violation of human rights of migrant workers, especially women and other vulnerable groups.

- **Outreach and Awareness raising**

- » Raise awareness for migrant workers pre departure and employers in destination countries
- » Raise awareness for the need for workers' organisations to include migrant workers
- » Establish platforms for meeting migrant workers and exchanging with them
- » Communicate the existence and objectives of monitoring and evaluation mechanisms adequately to migrant workers themselves, making the information available and accessible to them.

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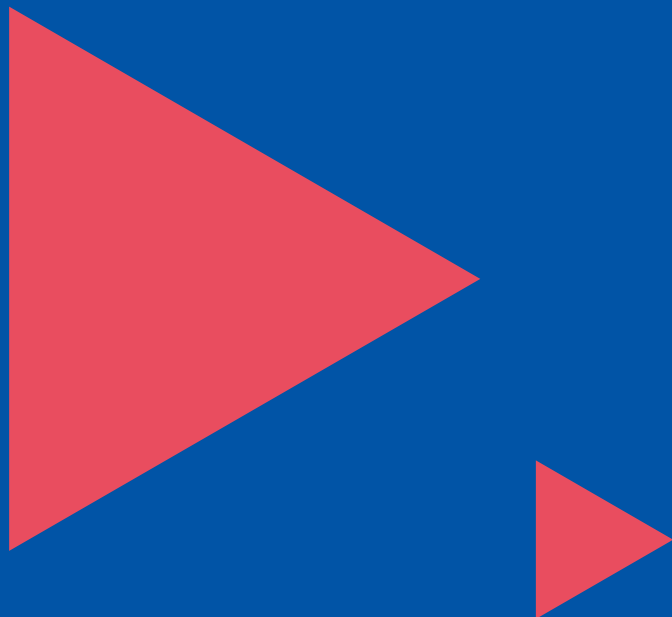
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▶ Annex 1

- ▶ List of Anonymised Key Informant Interviews
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KEYINFORMANT REFERENCE	INSTITUTION / AFFILIATION
ALGERIA	
KII 1	Migration Specialist - ILO
KII 2	Academic - Migration Law Researcher
CAMEROON	
KII 1	External Relations Ministry
KII 2	Solutions to Clandestine Migrations - NGO
KII 3	University of Yaounde II - Soa
KII 4	Ministry of Labour
KII 5	Civil Society
KII 6	Ministry for the Promotion of Women and the Family
KII 7	Ministry of External Relations
KII 8	Ministry of Social Affairs
KII 9	Ministry of Social Affairs
KII 10	Ministry of Employment and Vocational Training
DRC	
KII 1	Bukavu Official University
KII 2	General Inspectorate of Labour, Employment and Social Security
KII 3	Free Christian Trade Union of Congo
KII 4	Catholic University of Bukavu
KII 5	Ministry of International Cooperation
KII 6	University of Kisangani
KII 7	Higher Institute of ICT and Management
KII 8	Catholic University of Bukavu
EGYPT	
KII 1	AUC - Centre for Migration and Refugee Studies
KII 2	German Development Agency (GIZ)
ETHIOPIA	
KII 1	Ministry of Labour and Social Affairs (MoLSA)
KII 2	Bahirdar University
KII 3	Better Migration Management/German Development Agency (GIZ)
KII 4	Ministry of Women and Children Affairs (MOWCA)
KII 5	Immigration Nationality and Vital Events Agency (INVEA)
KII 6	Local NGO, Agar
KII 7	Alhadrami Foreign Employment Agency
KII 8	Freedom Fund
COTE D'IVOIRE	
KII 1	West African Civil Society Forum (WACSF/FOSCAO)

KII 2	AVSI Côte d'Ivoire
KII 3	Ministry of Justice
KII 4	International Coalition for the Defence of Human Rights (CIDDH)
KII 5	AVSI Côte d'Ivoire
KII 6	Ministry of Employment and Social Protection
KII 7	National Social Security Welfare Fund (CNPS)
KII 8	Jean-Luc Varlet Law firm
KII 9	Save the Children
KII 10	International Coalition for the Defence of Human Rights (CIDDH)
KII 11	REPSFECOCI
KII 12	Labour Inspectorate
KENYA	
KII 1	Regional Durable Solutions Secretariat (ReDSS)
KII 2	Department of Immigration
KII 3	Hebrew Immigrant Aid Society (HIAS) Kenya
KII 4	Refugee Affairs Secretariat (RAS)
KII 5	Kenya Union of Domestic Hotels, Educational Institutions and Allied Workers (KUDHEIHA)
KII 6	Association of Skilled Migrant Agencies in Kenya (ASMAK)
KII 7	Department of Immigration
KII 8	Centre for Domestic Training and Development
KII 9	Haart Kenya
KII 10	Kenya National Commission of Human Rights
MOROCCO	
KII 1	French National Centre for Scientific Research (CNRS)
KII 2	Council of Sub-Saharan Migrants in Morocco
KII 3	National Institute of Statistics and Applied Economics
KII 4	Moulay Ismael University
KII 5	Democratic Labour Organisation (Immigration Section)
KII 6	Collective of Sub-Saharan Communities in Morocco
KII 7	National Agency for the Promotion of Employment and Skills
KII 8	Antiracist Group of Defence and Accompaniment of Foreigners and Migrants (GADEM)
KII 9	National Council for Human Rights
NIGERIA	
KII 1	Nigerian Institute for Advanced Legal Studies
KII 2	Initiative for Labour Migration, Employment and Reintegration in Nigeria
KII 3	Centre for Women's Studies
KII 4	Nigeria Labour Congress

KII 5	Human Capital Providers Association of Nigeria (HuCaPAN)
KII 6	JJ Central Capitals Manpower and Recruitment Limited
KII 7	Policy and Migration Expert
KII 8	Cooperation, Human Rights
SOMALIA	
KII 1	Solutions for Humanity
KII 2	Labour Rights Aspirations
KII 3	Somali Women and Development Centre
KII 4	Juba Aid for Peace and Development
KII 5	Takulo Somali Community
KII 6	National Commission for Refugees and IDPs (NCRI)
KII 7	Independent Consultant on Gender Empowerment
KII 8	Ministry of Development and Human Rights Development
KII 9	Ministry of Labour and Social Affairs
KII 10	Ministry of Labour and Social Affairs
SOUTH AFRICA	
KII 1	Migrant Workers Union of South Africa
KII 2	Lawyers for Human Rights (LHR)
KII 3	Scalabrini Institute for Human Mobility in Africa
KII 4	International Organisation for Migration (IOM)
KII 5	South African Human Rights Commission
KII 6	Sol Plaatje University
KII 7	National Department of Employment and Labour
SUDAN	
KII 1	Ministry of Labour
KII 2	Mutawinat Organisation
KII 3	Sudan's Organisation for Development
KII 4	Gadrfif University
KII 5	Sudanese Business Federation
KII 6	United Nations Office on Drugs and Crime (UNODC)
KII 7	Ministry of Foreign Affairs
UGANDA	
KII 1	Federation of Uganda Employers
KII 2	Platform for Labour Action
KII 3	Rahab Uganda
KII 4	Uganda Scientists, Researchers and Allied Workers' Union
KII 5	German Agency for International Migration (GIZ)
KII 6	Ministry of Gender, Labour, and Social Development

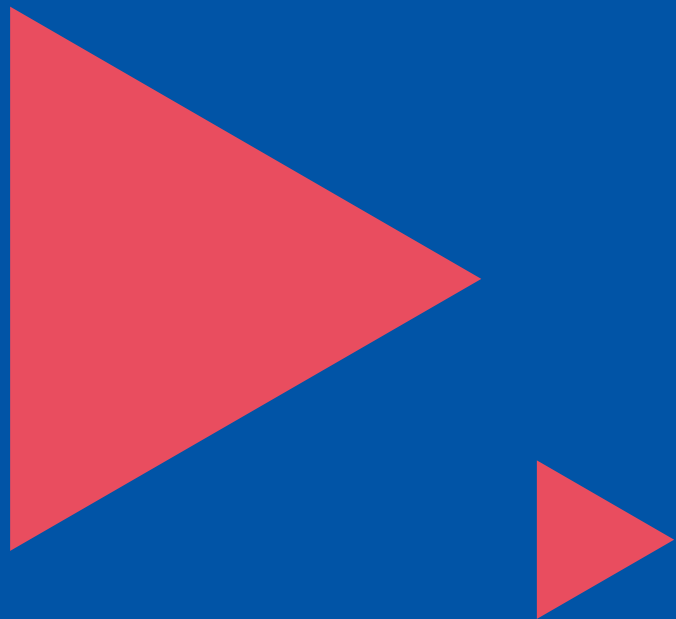
Assessment of Legal Labour Migration Frameworks in Africa

List of Known Bilateral Labour Migration Arrangements By
African Union Member States

KII 7	Uganda Association of External Recruitment Agencies
ZIMBABWE	
KII 1	Zimbabwe Congress of Trade Unions
KII 2	International Labour Expert
KII 3	Head-hunters International
KII 4	Zimbabwe Congress of Trade Unions
KII 5	Women's Coalition
KII 6	Gender Commission of Zimbabwe
KII 7	Ministry of Youth Sport and Culture
KII 8	Ministry Public Service, Labour and Social Welfare
KII 9	Ministry of Home Affairs Dept of Immigration
KII 10	University of South Africa
KII 11	Zimbabwe Teachers Association
KII 12	Gender and Women Rights
RECs AND REGIONAL ORGANISATIONS	
KIIREC 1	Business Africa/Federation of Kenyan Employers (FKE)
KIIREC 2	Women in Cross Border Trade
KIIREC 3	Federation of Kenya Employers (FKE)
KIIREC 4	Common Market for Central and Southern Africa (COMESA)
KIIREC 5	Arab Maghreb Union (AMU)
KIIREC 6	East African Community (EAC)
KIIREC 7	The Southern Africa Cross Border Association
KIIREC 8	The African Regional Organisation of the International Trade Union Confederation (ITUC-Africa)

▶ Annex 2

- ▶ **List of Known Bilateral Labour Migration Arrangements By African Union Member States**
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No.	Title of the bilateral instrument	Origin country	Destination country	Year signed
1	Agreement on labour cooperation between the Government of the Republic of Seychelles and the Government of The People's Republic of Bangladesh	Bangladesh	Seychelles	2019
2	Agreement between the Government of the Republic of France and the Government of the Republic of Benin on concerted management of migratory flows and co-development	Benin	France	2007
3	Agreement between the Government of the Republic of South Africa and the Government of the Republic of Botswana relating to the Establishment of an office for a Botswana Government Labour Representative in the Republic of South Africa, Botswana citizens in the Republic of South Africa and the Movement of such persons across the International Border, Pretoria Gaborone, 24 December 1973; Date of entry in force: 24 December 1973	Botswana	South Africa	1973
4	Agreement between the Government of the Republic of France and the Government of Burkina Faso on concerted management of migratory flows and "developpement solidaire"	Burkina Faso	France	2009
5	Protocol regarding the Temporary Emigration of Cape Verde Workers for employment in Portugal	Cape Verde	Portugal	1997
6	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Cape Verde	Cape Verde	Spain	2007
7	Agreement between the government of the Republic of France and the government of the Republic of Cape Verde on concerted management of migratory flows and "developpement solidaire"	Cape Verde	France	2008
8	Framework document on Towards a Renewed Partnership between the French Republic and the Union of Comoros (Vers un Partenariat Renouvelé entre la République Française et l'Union des Comores), 22 Jul 2019	Comoros	France	2019
9	Agreement between the Government of the Republic of France and the Government of the Republic of Congo on concerted management of migratory flows and co-development	Congo	France	2007
10	Memorandum of Understanding between the Government of the Democratic Republic of the Congo and the Government of the Republic of South Africa on co-operation in immigration and population matters, 30 November 2004	C o n g o , D e m o c r a t i c R e p u b l i c o f t h e	South Africa	2004
11	Domestic worker agreement (suspended)	Djibouti	Saudi Arabia	*
12	Cooperation in the fight against irregular migration, including smuggling and human trafficking (not exact title)	Djibouti	Ethiopia	2009
13	Agreement on the regulation of employment of Djiboutian nationals in Qatar (Doha August 2011).	Djibouti	Qatar	2011

14	Technical Cooperation Agreement between the State of Kuwait and the Arabic Republic of Egypt concerning labour force movement	Egypt	Kuwait	1997
15	Agreement between the Government of the Republic of Italy and the Government of the Arabic Republic of Egypt on cooperation in the field of bilateral migratory flows for labour purposes	Egypt	Italy	2005
16	Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Government of the State of Kuwait on the field of exchange of manpower	Ethiopia	Kuwait	2009
17	Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Government of the State of Kuwait concerning the employment of Ethiopian manpower in the State of Qatar.	Ethiopia	Qatar	2012
18	Memorandum of Understanding (MoU) on Labour cooperation (not exact title)	Ethiopia	Jordan	2012
19	Agreement on the employment of domestic workers between the ministry of Labor And Social Affairs of the Federal Democratic Republic of Ethiopia and the Ministry of Labor and Social Development of the Kingdom of Saudi Arabia	Ethiopia	Saudi Arabia	2017
20	Memorandum of Understanding between the Government of the Federal Democratic Republic of Ethiopia and the Government of the United Arab Emirates on the Employment of Ethiopian Workers in the UAE	Ethiopia	UAE	2018
21	Bilateral Agreement on Circular Migration	France	Mauritius	2008
22	Agreement between the Government of the Republic of France and the Government of the Republic of Gabon on concerted management of migratory flows and co-development	Gabon	France	2007
23	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Gambia	Gambia	Spain	2006
24	Agreement regulating the employment of Gambian workers in the state of Qatar	Gambia	Qatar	2010
25	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Guinea Bissau	Guinea Bissau	Spain	2008
26	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Guinea	Guinea Conakry	Spain	2006
27	Agreement between the Government of the State of Qatar and the the Government of the Republic of Kenya concerning the regulation of manpower employment in the State of Qatar	Kenya	Qatar	2012
28	Agreement between the Government of the Republic of Kenya and the Kingdom of Saudi Arabia on recruitment of domestic workers	Kenya	Saudi Arabia	2016

29	Memorandum of Understanding on Health Partnership between the Government of the Republic of Kenya and United Kingdom of Great Britain and Northern Ireland signed January 2021;	Kenya	UK	2021
30	Memorandum of Understanding on Labour Cooperation between the Government of the United Arab Emirates and the Government of the Republic of Kenya	Kenya	UAE	2018
31	Bilateral agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland for collaboration on health care workforce, Signed in London on 29 July 2021	Kenya	UK	2021
32	Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho relating to the Establishment of an Office for a Lesotho government Labour Representative in the Republic of South Africa, Lesotho Citizens in the Republic of South Africa and the Movement of such Persons across the International border, Place and date of signature: Pretoria and Maseru, 24 August 1973; Date of entry in force: 24 August 1973	Lesotho	South Africa	1973
33	Memorandum of understanding between the Government of the Republic of South Africa through its Department of Labour and the Government of the Kingdom of Lesotho through its Ministry of Employment and Labour on cooperation in the field of labour, 30 October 2006	Lesotho	South Africa	2006
34	Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho on the facilitation of cross border movement of citizens of the Republic of South Africa and the Kingdom of Lesotho, 19 June 2007.	Lesotho	South Africa	2007
35	Memorandum of understanding between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho in the field of labour, 03 December 2013	Lesotho	South Africa	2013
36	Memorandum of understanding on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic, 2 February 2017	Libya	Italy	2017
37	Agreement between the Governments of the Republic of South Africa and Malawi relating to the employment and documentation of Malawi nationals in South Africa, Signed 1 August 1967	Malawi	South Africa	1967
38	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Mali	Mali	Spain	2007
39	Cooperation between the Government of the People's Democratic Republic of Algeria and the Government of the Republic of Mali in the field of employment and employment and social security, signed in Pmaco on November 3, 2016	Mali	Algeria	2016

40	Agreement between the Kingdom of Spain and the Islamic Republic of Mauritania on regulation of labour migration flows between the two countries	Mauritania	Spain	2007
41	Agreement between the Government of the Republic of France and the Government of the Republic of Mauritius concerning the staying and circular migration of professionals	Mauritius	France	2008
42	Joint Declaration between the Italian Ministry of Labour and Social policies and the Mauritian Ministry for Labour, industrial relations and Employment on cooperation and technical assistance in the field of circular migration.	Mauritius	Italy	2012
43	Memorandum of Understanding between the Government of the Republic of Seychelles represented by the Ministry of Education and Human Resource Development and the Government of Republic of Mauritius represented by the Ministry of Labour, Industrial Relations, Employment and Training on recruitment of teachers and other specialists in the education sector from Mauritius	Mauritius	Seychelles	2017
44	Labour force Convention	Morocco	France	1963
45	Agreement regulating the employment of Moroccan workers in the State of Qatar	Morocco	Qatar	1981
46	Agreement on manpower between the Kingdom of Spain and the Kingdom of Morocco	Morocco	Spain	2001
47	Bilateral agreement on labour between the Government of the Republic of Italy and the Government of the Kingdom of Morocco	Morocco	Italy	2005
48	Agreement between the Government of the Republic of South Africa and the Government of the Republic of Portugal regulating the employment of Portugese workers from the Province of Mozambique on certain mines in the Republic of South Africa	Mozambique (Portugal)	South Africa	1964
49	Co-operation agreement between the Government of the Republic of Mozambique and the Government of the Republic of South Africa in the fields of migratory labour, job creation, training, studies and research, employment statistics, social dialogue and social security, 17 January 2003	Mozambique	South Africa	2003
50	Agreement between the Government of the Republic of South Africa and the Government of the Republic of Portugal regulating the employment of Portugese workers from the Province of Mozambique on certain mines in the Republic of South Africa, Lisbon, 13th October, 1964, Amended by exchange of Notes: 24th February, 1971 and 11th May, 1971.	Mozambique (Portugal)	South Africa	1965 ; amended in 1971
51	Memorandum of Understanding between the Government of the Republic of South Africa and the Government of the Republic of Namibia on cooperation in the field of labour, 20-10-2008	Nambia	South Africa	2008
52	Framework agreement of cooperation on immigration between Kingdom of Spain and Republic of Niger	Niger	Spain	2008

53	Agreement between the Government of the Republic of France and the Government of the Republic of Senegal on concerted management of migratory flows	Senegal	France	2006
54	Somalia - Qatar Agreement	Somalia	Qatar	1983
55	Bilateral Labour Agreement (defunct)	Somalia	Saudi Arabia	1983
56	Agreement between the governments of Qatar and the Democratic Republic of Somalia on organising the recruitment of Somali workers to work in Qatar 15/05/2013	Somalia	Qatar	2013
57	Joint statement on social and labour co-operation between the Minister of Manpower of the Republic of South Africa and the Deputy Minister of Labour of the Russian Federation	South Africa	R u s s i a n Federation	1994
58	Memorandum of understanding between the Government of the Republic of South Africa and the Government of the Federal Republic of Germany concerning direct co-operation in the field of labour and labour related matters, Pretoria on 2 February 1995.	South Africa	Germany	1995
59	Financing agreement between the European Community and the Government of the Republic of South Africa concerning labour market skills development programme, 1997	South Africa	European Union	1997
60	Memorandum of understanding between the Government of the Republic of South Africa and the Government of the Kingdom of the Netherlands on technical cooperation in migration matters, 7 December 2010	South Africa	Netherlands	2010
61	Agreement and Additional Protocol regulating the employment of Sudanese workers in the State of Qatar	Sudan	Qatar	1981
62	An agreement on the use of the Sudanese workforce to work for the Government of Oman - 11/05/1981	Sudan	Oman	1981
63	An agreement between UAE and Sudan to regulate the use of Sudanese workers in UAE,	Sudan	UAE	1981
64	An agreement on the field of labour exchange between the Government of Sudan and the Government of Egypt.	Sudan	Egypt	2002
65	An agreement on the cooperation in the field vocational training Between Jordan and Sudan	Sudan	Jordan	2003
66	Agreement on Freedom of Movement, Residence, Work and Ownership between Sudan and Egypt 04/2004	Sudan	Egypt	2004
67	Memorandum of Understanding between the Government of the Republic of Sudan and the Government of the Federal Democratic Republic of Ethiopia on Exchange of Manpower, 22/04/2009	Sudan	Ethiopia	2009
68	An agreement to regulate the use of Sudanese business between Qatar and Sudan	Sudan	Qatar	2010
69	Framework Agreement on the Status of Nationals of the Other State and Related Matters between the Republic of the Sudan and the Republic of South Sudan, 27/09/2012	Sudan	South Sudan	2012

70	Memorandum of Understanding for technical cooperation in labour and social issues between the Ministry of Human Resources Development and Labour of the Republic of the Sudan and the Ministry of Labour, Invalids and Social Affairs of the Socialist Republic of Viet Nam	Sudan	Vietnam	2013
71	Memorandum of Understanding between Sudan and Tunisia in the field of vocational training and employment,	Sudan	Tunisia	2017
72	Memorandum of Understanding between Sudan and Saudi Arabia in the field of administrative development	Sudan	Saudi Arabia	2018
73	Technical cooperation in the field of Work between the Ministry of Human Resources development and Labour, Djibouti and Ministry of Labour and Administrative reform, Sudan	Sudan	Djibouti	*
74	Memorandum of Understanding between Sudan and Morocco in the field of human resource development and capacity building.	Sudan	Morocco	*
75	Memorandum of Understanding the Ministry of Labour and rehabilitation in Libya and Ministry of Labour in Sudan in the field of labour force exchange, training and Rehabilitation.	Sudan	Libya	*
76	Memorandum of Understanding between Sudan and Algeria in the field of vocational training and technical education	Sudan	Algeria	2010
77	Memorandum of Understanding between Sudan and Mauritania in the field of vocational training Cooperation	Sudan	Mauritania	2017
78	Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Swaziland relating to the establishment of an office for a Swaziland government Labour Representative in the Republic of South Africa, certain Swaziland citizens in the Republic of South Africa and the movement of such persons across the common border and the movement of certain South African citizens across the common border, and addendum thereto (22 August 1975)	Swaziland	South Africa	1975
79	Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Swaziland on the establishment of a Joint Bilateral Commission for cooperation, 20 December 2004	Swaziland	South Africa	2004
80	Agreement between the Government of the United Republic of Tanzania and the Government of the Republic of South Africa on cooperation in areas of migration matters, 5 April 2007	Tanzania	South Africa	2007
81	Labour force Convention	Tunisia	France	1963
82	Agreement regulating the employment of Tunisian workers in the State of Qatar	Tunisia	Qatar	1981
83	Framework agreement on concerted management of migrations and "developpement solidaire" between the Government of the Republic of France and the Government of the Republic of Tunisia	Tunisia	France	2008

Assessment of Legal Labour Migration Frameworks in Africa

List of Known Bilateral Labour Migration Arrangements By
African Union Member States

84	Bilateral agreement between the Hashemite Kingdom of Jordan and the Republic of Uganda concerning the recruitment and employment of Ugandan workers.	Uganda	Jordan	2016
85	Agreement on Domestic workers recruitment between the Ministry of Gender, Labor and Social Development in the Republic of Uganda and the Ministry of Labour and Social Development in the Kingdom of Saudi Arabia	Uganda	Saudi Arabia	2017
86	Memorandum of Understanding between the Government of the Republic of Uganda and the Government of the United Arab Emirates in the Field of Manpower and Domestic Worker Protocol.	Uganda	UAE	2019
87	Memorandum of understanding between the Republic of Zimbabwe and the Republic of Mozambique on co-operation on the fields of labour and employment 2015	Zimbabwe	Mozambique	2015
88	Memorandum of understanding between the Government of the Republic of South Africa and the Government of the Republic of Zimbabwe in the fields of employment and labour	Zimbabwe	South Africa	2004
89	Memorandum of Understanding between the Government of the Republic of Zimbabwe and the Government of the Republic of South Africa on cooperation in fields of employment and labour, 27 August 2009	Zimbabwe	South Africa	2009

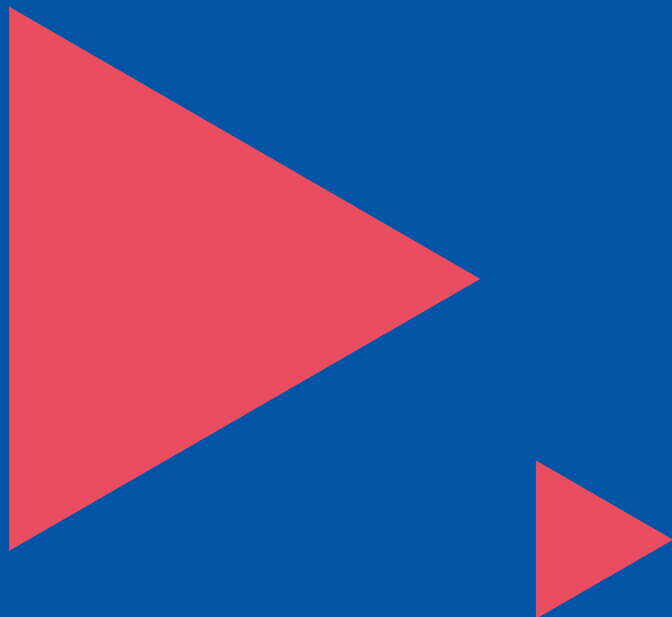
Note: Some bilateral arrangements are reciprocal and both parties may represent origin and destination countries. The list includes previous agreements between the two parties which may have been superseded.

*** Dates for three Sudan and 1 Djibouti BLAs established in Arabic language were not included in translations informally provided to GMPA.**

Compiled by Piyasiri Wickramasekara, August 2021.

▶ Annex 3

- ▶ African Labour Migration Survey (ALMS)
-



AFRICAN LABOUR MIGRATION SURVEY

AFRICAN LABOUR MIGRATION SURVEY 2021:
LAWS, POLICIES AND PRACTICE



INTRODUCTION TO THE SURVEY

As labour migration represents a significant opportunity for development, the AU, the International Labour Organization (ILO), the International Organisation for Migration (IOM), and the Economic Commission for Africa (ECA) are pleased to launch this survey to incorporate labour migration within national, regional, and continental labour legislation and policies.

Why is the survey being undertaken?

The ALMS 2021 builds on the 2004 International Labour Migration Survey at the scale of the African continent with a view to:

1. Assess labour law provisions, policies, and administrative measures in AU Member States and RECs;
2. Ensure their relevance to labour migration governance for improved coordination;
3. Assess their gender responsiveness.

What are the aims and scope of the survey?

The survey is aimed at obtaining the latest information on: ways in which migration and the treatment of migrant workers are being regulated or managed through laws, policies, administrative measures and specialized bodies of the State; the role played by bilateral and multilateral treaties, and Conventions; and the way in which the tripartite partners take part in the process. Furthermore, it aims to assess migrant workers' equality of treatment and opportunities with national workers considering also the gender equality and women's empowerment aspect; and to evaluate the potential gaps between International Labour Standards and national legislations, regulations and practices.

Who are being asked to respond to the survey?

The survey is being sent to Ministers of Labour of governments as well as to the most representative workers' and employers' organizations of all African Union member States of the ILO. It should be answered by officials responsible for and knowledgeable about national laws, policies and programmes about migration and the treatment of migrant workers.

The survey consists of several parts. Due to different internal structures of member States, governments may need to request the necessary information to different ministries. However, they are required to send a single complete answer to the survey.

Further information

Should there be any further questions regarding this survey, representatives are asked to contact AUC's Brian Onsase Okengo (OkengoB@africa-union.org); ILO's Mariette Sabatier (sabatier@ilo.org); or Samuel Hall's Andrés Estévez (andresestevez.consultant@samuelhall.org)

When is the deadline for sending replies to the ILO?

The survey should last approximated 60 minutes. Governments, workers and employers organizations, and CSO's are invited to submit their reply at the latest by 31 August 2021

Practical Guidance

Note that, to facilitate answers, explanations and further information is provided in italics.

In addition to ticking in the appropriate box, some questions invite you to include further detailed. *Please ensure that you answer these questions fully and comprehensively.* For example:

- List laws, regulations and any other information you deem relevant.
- Indicate your national laws, policies and practice in relation to the subject matters at issue.

Please input the date

yyyy-mm-dd

GENERAL INFORMATION

Please select your country

- | | | |
|---|---|--|
| <input type="radio"/> Algeria | <input type="radio"/> Angola | <input type="radio"/> Benin |
| <input type="radio"/> Botswana | <input type="radio"/> Burkina Faso | <input type="radio"/> Burundi |
| <input type="radio"/> Cameroon | <input type="radio"/> Cape Verde | <input type="radio"/> Central African Republic |
| <input type="radio"/> Chad | <input type="radio"/> Comoros | <input type="radio"/> Democratic Republic of the Congo |
| <input type="radio"/> Republic of the Congo | <input type="radio"/> Djibouti | <input type="radio"/> Egypt |
| <input type="radio"/> Equatorial Guinea | <input type="radio"/> Eritrea | <input type="radio"/> Eswatini |
| <input type="radio"/> Ethiopia | <input type="radio"/> Gabon | <input type="radio"/> Gambia |
| <input type="radio"/> Ghana | <input type="radio"/> Guinea | <input type="radio"/> Guinea-Bissau |
| <input type="radio"/> Ivory Coast | <input type="radio"/> Kenya | <input type="radio"/> Lesotho |
| <input type="radio"/> Liberia | <input type="radio"/> Libya | <input type="radio"/> Madagascar |
| <input type="radio"/> Malawi | <input type="radio"/> Mali | <input type="radio"/> Mauritania |
| <input type="radio"/> Mauritius | <input type="radio"/> Morocco | <input type="radio"/> Mozambique |
| <input type="radio"/> Namibia | <input type="radio"/> Niger | <input type="radio"/> Nigeria |
| <input type="radio"/> Rwanda | <input type="radio"/> Sahrawi Arab Democratic Republic (Western Sahara) | |
| <input type="radio"/> São Tomé and Príncipe | <input type="radio"/> Senegal | <input type="radio"/> Seychelles |
| <input type="radio"/> Sierra Leone | <input type="radio"/> Somalia | <input type="radio"/> South Africa |
| <input type="radio"/> South Sudan | <input type="radio"/> Sudan | <input type="radio"/> Tanzania |
| <input type="radio"/> Togo | <input type="radio"/> Tunisia | <input type="radio"/> Uganda |
| <input type="radio"/> Zambia | <input type="radio"/> Zimbabwe | |

Please select a type of affiliation

- Ministry of Labour representative
- Workers' Organizations representative
- Employers' Organizations representative

Please specify affiliation

Please select your gender

- Female
- Male
- Other

I. ADHERENCE TO INTERNATIONAL LEGAL FRAMEWORKS AND LABOUR STANDARDS

If not ratified already, is your country considering ratifying any of the following international conventions and protocols related to labour migration?

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Private Employment Agencies Convention, 1997 (No. 181)
- Domestic Workers Convention, 2011 (No. 189);
- Violence and Harassment Convention, 2019 (No. 190);
- Protocol of 2014 to the Forced Labour Convention, 1930
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment
- African Charter on the Rights and Welfare of the Child
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
- African Charter on Human and Peoples' Rights
- Other
- None of the above

Please specify additional ratified conventions and protocols under consideration

II. INTERNATIONAL COOPERATION

Has your country entered into bilateral or multilateral labour migration agreements?

For example: agreements regarding admission, recruitment, employment, or skills recognition.

Yes

No

Did the process take place through tripartite consultation?

Yes

No

If possible, please list agreements and countries involved mentioning dates of adoption

Has your country entered into bilateral or multilateral social protection of migrant workers agreements?

Yes

No

Did the process take place through tripartite consultation?

Yes

No

Please list agreements and countries (or REC) involved mentioning dates of adoption.

Is your country currently on negotiations for entering into a bilateral or multilateral agreement with implications for labour migration?

- Yes
 No

Is the process taking place through tripartite consultation?

- Yes
 No

Please list agreements and countries (or REC) involved mentioning dates of adoption.

Is your country considering entering into a bilateral or multilateral agreement with implications for labour migration?

- Yes
 No

Please list agreements and countries (or REC) involved mentioning dates of adoption.

Is your country currently engaged in tripartite consultations with REC actors or other relevant regional stakeholders?

- Yes
 No

Please list agreements under negotiation/consideration and countries involved

III. NATIONAL POLICIES AND LEGAL FRAMEWORKS

Does your government have a labour migration national policy?

- Yes
- No

Please specify the name of your national policy

Has the government introduced changes to the labour migration national policy in the last 5 years?

- Yes
- No

Is the country considering introducing any changes to the national policy?

- Yes
- No

Do you have labour migration —immigration— for employment laws or regulations?

- Yes
- No

Please list laws and regulations

Do you have labour migration —emigration— for employment laws or regulations?

- Yes
- No

Please list laws and regulations

Does your country have clauses related to labour migration provided for expressly in:

the Constitution?

- Yes
 No

the Labour laws?

- Yes
 No

the Employment law?

- Yes
 No

the Human Rights law?

- Yes
 No

the Social Security law?

- Yes
 No

the Equality or non-discrimination law?

- Yes
 No

the Immigration law?

- Yes
 No

the Anti-trafficking law?

- Yes
 No

the Anti-smuggling law?

- Yes
 No

Criminal law?

- Yes
- No

Collective Agreements?

- Yes
- No

Other, please specify



With respect to labour migration from your country, do you have specific provisions regulating the following?

- Contracts and contractual conditions of migrant workers
- Mandatory recruitment through public employment offices
- Direct recruitment by employers
- Recruitment through private recruitment agencies
- Licensing of private recruitment agencies
- Prosecution against recruitment malpractices
- Provisions against gender discrimination
- Gender equality and related needs
- Migration/recruitment fees and costs
- None of the above

IV. INSTITUTIONS AND LABOUR MIGRATION

Does your country have competent national authority(ies) responsible for matters related to labour immigration policies, laws and practices.

- Yes
- No

Does the competent authority exercise the following functions:

- Formulate policies regarding the employment of foreign migrant workers
- Enter into agreements with foreign recruitment agencies
- Authorize or license foreign natural or legal persons to engage in recruitment
- Recruit foreigners for employment
- Set minimum standards for employment contracts
- Approve work contracts whose terms meet standards and regulations
- Prosecute violators of recruitment regulations
- Collect fees
- Arbitrate disputes between foreign migrant workers and their national employers or agents
- Campaigns and programmes against trafficking and smuggling
- Provide pre-departure information on rights, living and working conditions for foreign migrant workers in your country
- Collect information on malpractices and violations of rights of foreign migrant workers in your country
- Provide information to foreign migrant workers upon departure
- Provide assistance to foreign migrant workers in your country and upon departure
- Provide specific services to address the needs of women migrant workers
- None of the above

Does your country have authority(ies) responsible for matters related to work permits.

- Yes
- No

Does your country have authority(ies) responsible for matters related to residence permits.

- Yes
- No

Does your country have a competent authority(ies) responsible for matters related to labour emigration policy, laws and practices?

- Yes
- No

Does the competent authority exercise the following functions:

- Formulate policies regarding the employment of nationals in foreign countries
- Enter into agreements with foreign employers
- Authorize or license natural or legal persons to engage in recruitment
- Recruit nationals for employment abroad
- Set minimum standards for employment contracts
- Approve work contracts whose terms meet standards and regulations
- Prosecute violators of recruitment regulations
- Collect fees
- Arbitrate disputes between migrant workers and their foreign employers or agents
- Campaigns and programmes against trafficking and smuggling
- Provide pre-departure information on rights, living and working conditions for migrant workers in destination countries
- Collect information on malpractices and violations of rights of migrant workers in host countries
- Provide information to migrant workers in host countries and upon return
- Provide assistance to migrant workers in host countries and upon return
- Provide specific services to address the needs of women migrant workers
- None of the above

Does the Minister of Labour or any other competent authority assist migrant workers assert their rights through a programme or service with such a purpose?

- Yes
- No

Does the Minister of Labour or any other competent authority assist foreign migrant workers assert their rights through information on national labour standards and institutions?

- Yes
- No

Does the Minister of Labour or any other competent authority assist foreign migrant workers assert their rights through information translated to their own language?

- Yes
- No

Does the Minister of Labour or any other competent authority assist foreign migrant workers assert their rights through a programme or service specific for migrant women?

- Yes
- No

Does the Minister of Labour or any other competent authority assist foreign women migrant workers assert their rights through information?

- Yes
 No

Briefly describe the type, content, and channels of information provided to women

Do you have a national coordination mechanism on migration?

- Yes
 No

Does the country involve workers' organizations on labour migration dialogue?

- Yes
 No

Does the country involve employers' organizations on labour migration dialogue?

- Yes
 No

Are representative employers' or workers' organizations taking part in the formulation and implementation of labour migration policies, laws and regulations?

- Yes
 No

Is there women representativeness within employers' and workers' organizations taking part in the formulation and implementation of labour migration policies, laws and regulations?

- Yes
 No

Do workers' organizations carry out specific activities or services targeted at migrant workers?

- Yes
 No

Please list activities and services provided.

Do employers' organizations carry out specific activities or services targeted at migrant workers?

- Yes
 No

Please list activities and services provided.

V. IMPLEMENTATION OF POLICIES AND MONITORING STRUCTURES

Does your country have a competent authority specifically placed in charge of the monitoring and control of private employment/recruitment agencies?

- Yes
 No

Please indicate the name of the competent authority

Are quotas or limits set on the total number of migrant workers that may be admitted during a particular period (for example, a calendar year)?

- Yes
 No

Please specify the quotas and limits set by your country:

Are quotas or limits set on the total number of migrant workers who may be admitted during a particular period for selected countries of origin?

- Yes
 No

Please specify the countries, quotas and limits set by your country:

Are quotas or limits set on the total number of migrant workers who may be admitted during a particular period for particular economic activities?

- Yes
 No

Please specify the activities, quotas and limits set by your country:

Are quotas or limits set on the total number of migrant workers who may be admitted during a particular period for particular economic occupations?

- Yes
 No

Please specify quotas and limits by occupation

Are quotas or limits set on the total number of migrant workers who may be admitted during a particular period for migrant workers with particular levels of skills?

- Yes
 No

Please specify quotas and limits by skill levels

In terms of admission, select if your country allows for preferential treatment for:

- Migrant workers from specific countries
- Migrant workers from countries with whom you have entered into bilateral or multilateral or other agreements concerning migrant workers
- Migrant workers from countries with whom you have entered into a trade agreement
- Migrant workers from countries with whom you have formed an economic union, economic or political association
- Migrant workers that satisfy other criteria such as specific ethnic origin or ancestry
- Migrant works from countries of belonging to the same REC
- Workers based on their educational attainment ("skills")
- Migrant women
- Children
- No preferential treatment

Is admission excluded for migrant workers originating from any specific countries?

- Yes
 No

Please specify excluded countries of origin

Are there health requirement that migrant workers need to provide in order to gain admission into your country?

- General health check
- Test negative for HIV/AIDS
- Covid-19 test.
- Any other vaccines or immunisations
- Negative pregnancy test
- No health requirements for admission
- Other health related requirements

Please specify affiliation

Does your country provide for different admission categories for the purpose of employment?

- Yes
- No

Please specify additional categories

Does your country count with a national administration skills' system to facilitate the validation and recognition of migrant workers' skills and qualifications at various levels?

- Yes
- No

What are the different methods that apply for the validation and recognition of, respectively, academic education, vocational education and work experience?

Is information on existing recognition systems easily available in the country?

- Yes
- No

How effective do you consider the systems to be and why?

Do employers in your country have requirements to meet in order to be allowed to employ migrant workers?

- Yes
- No

Please indicate the requirements that an employer in your country has to meet in order to be allowed to employ migrant workers:

- Must demonstrate a lack of qualified applicants .. weeks after announcement of job offer.
- Must offer to migrant workers a wage no less than that offered to nationals.
- Must offer migrant workers a premium over wage offered to nationals.
- Must be willing to pay a migrant worker's levy or tax.
- Must be in a selected or priority industry/branch of economic activity.
- Must qualify as an export industry/branch of economic activity.
- Must qualify as a small or medium-sized enterprise.
- Must be in a priority geographic area or region.
- Must put up a deposit to guarantee return of migrant worker.

Are there active Private Employment Agencies (PEAs) in your country?

- Yes
- No

Briefly describe the list of services and roles of PEAs.

How are PEAs regulated?

Does your country have Public Employment Services (PES)?

- Yes
- No

What services do PES provide?

Are there existing partnerships between PES-PEAs?

- Yes
- No

How does the partnership work?

Are there informal recruiters present in the labour market?

- Yes
- No

How important is their presence?

- Very high
- High
- Medium
- Low
- Very Low

How is it regulated?

Can private employment/recruitment agencies be granted authorization to bring in migrant workers?

- Yes
- No

How important is the system of private employment/recruitment?

- Very high
- High
- Medium
- Low
- Very Low

How is it regulated?

Are private employment/recruitment agencies charging recruitment fees to migrant workers or their employers?

- Migrant workers
- Employers
- None

Are fees considered to be abusive?

- Yes
- No

Are there specific penalties for recruitment malpractices?

- Yes
 No

Briefly describe penalties and consequences

Have competent authorities taken specific measures to combat recruitment malpractices?

- Yes
 No

Briefly describe list of measures taken

Does your country have any of the following restriction regarding occupational mobility of migrant workers?

- Change of employer not allowed under any circumstance
 Change of employer allowed subject to prior approval by competent authority
 Change of employer allowed at any time if in the same branch of economic activity
 Change of employer allowed only after certain years of legal employment
 Change of employer allowed subject to prior approval by the employer
 No restrictions

Has your country made use of one off regularization programmes in the past 5 years?

- Yes
 No

Is there an established procedure through which irregular migrant workers can regularize their status?

- Yes
 No

On what grounds have irregular migrant workers been considered to qualify for regularization?

- Being sufficiently employed.
- Length of stay in the country.
- No criminal record.
- Ability to understand and speak language of the country.
- Family ties (non-children)
- Having children who are citizens' of the country of work
- Other

Please specify grounds for regularization

Are there conditions for preferential treatment in regularization procedures?

- Yes
- No

Briefly specify conditions for preferential treatment

Does your country has a specific admission scheme for temporary (seasonal) migrant workers?

- Yes
- No

Briefly describe scheme for temporary or seasonal work

Do you have an established procedure for hearing appeals against expulsion?

- Yes
- No

Does your Government allow victims of trafficking to remain in the country?

- Yes
- No

Does your government have labour migration attachés in consular sections?

- Yes
 No

Please list countries with attachés in consular sections

VI. PROTECTION AND ACCESS TO SERVICES

From the list below, what systems of social protection exist in your country?

- Social insurance (SI), i.e. contributory schemes.
 Provident funds or mandatory savings schemes (PF).
 Social assistance (SA), financed from taxes, for those with low income or means.
 Universal benefits (UB) financed from taxes and usually residency based.
 Schemes financed by employers only (ES).
 Other
 None of the above

Please indicate who is entitled to the following social protection rights and benefits:

unemployment benefits

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
 Temporary MWs
 Nationals and permanents
 Nationals and regular MWs**
 Nationals only
 None of the above

sickness benefits

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
 Temporary MWs
 Nationals and permanents
 Nationals and regular MWs**
 Nationals only
 None of the above

old-age benefits

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

employment injury benefits

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

maternity benefits

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

benefits for family members

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

invalidity benefits

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

survivors benefits

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

free public health services

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

free housing for agricultural or other workers

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

public schooling for children

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

access to legal proceedings in a language they understand

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

Migrant workers are entitled to maintain acquired rights with respect to long-term benefits if:

For example: old-age benefit, invalidity, survivors' benefit, unemployment benefits.

- Only if they stay in your country
- Regardless where they stay
- They don't have that right

Migrant workers are entitled to accumulate rights in situations where work is carried out in different countries over a period of time?

- Yes
- No
- Under certain conditions

Please specify the conditions for rights accumulation

From the list below, what labour standards and procedures exist in your country to determine the situation of workers

- Non-discrimination
- Minimum age for employment
- Prohibitions against physical/sexual abuse/harassment
- Remuneration according to minimum wage
- Payment of salaries according to contract
- Prohibition against wage reductions in excess of that allowed in law
- Entitlements to rest periods/days
- Entitlements to adequate housing
- Entitlements to safe and healthy working conditions
- None of the above

From the list below, what systems of labour protection exist in your country?

- Labour Market programmes aiming at promoting participation or ensuring minimum employment standards.
- Labour Market programmes for equal pay.
- Labour Market programmes to fight discrimination at work
- Labour Market programmes reasonable working hours and rest.
- Specific programmes aimed at enhancing gender equality
- Other
- None of the above

Please indicate who is entitled to the following labour protection rights and benefits:

access to justice

**Includes irregular migrant workers.*

***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

form or join workers' organizations

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

bargain collectively

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

protection against forced labour

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

protection against discrimination at work

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

minimum age for employment

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

minimum wages

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

right to join a social protection scheme

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

protection against sexual harassment

**Includes irregular migrant workers.*
***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

protection against ethnic and racial harassment

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

access to training

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

easily accessible information on rights and labour regulations in appropriate and gender-responsive ways

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

adequate prevention of occupational accidents or diseases

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

Migrant workers who, prior to the termination of their contract, lose their employment through no fault of their own, are:

- Allowed to stay and seek other employment
- Assisted in finding other employment
- Required immediately to return to country of origin
- Given separation pay and sent home
- None of the above

Upon regular termination of their contract, are temporary or guest migrant workers allowed to remain in your country to seek other employment?

- Yes
- No

Are the following considered valid grounds for termination of employment?

- Injury or illness.
- Testing positive for HIV/AIDS
- Disability
- Pregnancy
- None of the above

Government authorities monitor the conditions of employment of ... ?

- National workers
- Migrant workers
- All workers
- None of the above

Are there special procedures for monitoring migrants working conditions in a regular labour inspection system?

- Yes
- No special procedure, inspection system monitors all workers conditions.
- No, there is no labour inspection system.

Are special procedures and inspections conducted in case of complaints by migrant workers, such as by victims of trafficking or by foreign domestic helpers?

- Yes
- No

Briefly describe these procedures, their gender-responsiveness, and the barriers they address

Please indicate who is entitled to the following rights and benefits:

vote in local elections

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

vote in national elections

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

obtain a SIM card and/or set up an internet line

**Includes irregular migrant workers.
**Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

open bank account and access financial institutions

**Includes irregular migrant workers.*

***Permanent and temporary migrant workers.*

- All workers *
- Temporary MWs
- Nationals and permanents
- Nationals and regular MWs**
- Nationals only
- None of the above

Is the presence of migrant workers in your informal economy significant?

- Yes
- No

Please provide best estimates available. If possible, provide estimates of the shares by gender and migration status.

Has your country included an integrated policy framework to facilitate the transition to the formal economy in your national development or poverty reduction strategy?

- Yes
- No

Does this policy framework also targets the formalization of migrant workers?

- Yes
- No

Does the policy framework have special provisions for the formalization of migrant women?

- Yes
- No

Through which measures are you planning to extend legal and social protection to migrants working in the informal economy?

- social security coverage
- maternity protection
- decent working conditions
- coverage of social insurance
- adaptation of administrative procedures, benefits and contributions
- encouraging the provision of, and access to, affordable quality childcare and other services

VII. TECHNICAL COOPERATION FROM THE AUC, ILO AND IOM

Have any of the following conventions or protocols served to design your own national laws, policies, and practices?

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Private Employment Agencies Convention, 1997 (No. 181)
- Domestic Workers Convention, 2011 (No. 189);
- Violence and Harassment Convention, 2019 (No. 190);
- Protocol of 2014 to the Forced Labour Convention, 1930
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment
- African Charter on the Rights and Welfare of the Child
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
- African Charter on Human and Peoples' Rights
- Other
- None of the above

Please specify additional ratified conventions and protocols under consideration

Have any of the following recommendations and tools served to design your own national laws, policies, and practices?

- African Union revised Migration Policy Framework for Africa
- HIV and AIDS Recommendation, 2010 (No. 200)
- Domestic Workers Recommendation, 2011 (No. 201)
- Social Protection Floors Recommendation, 2012 (No. 202)
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)
- Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)
- R 205 - Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)
- R 206 - Violence and Harassment Recommendation, 2019 (No. 206)
- ILO's 2019 "Tool for the Assessment of Bilateral Labour Arrangements on Labour Migration"
- 2018 Guide and training manual, entitled: "The Importance of Recognizing Prior Learning of Migrant Workers"
- ILO's 2017 General practical guidance on promoting coherence among employment, education/training and labour migration policies
- 2017 ILO/KNOMAD study "Deficiencies in conditions of work as a cost to labour migration: Concepts, extent and implications"
- 2017 ILO report "Migrant access to social protection under Bilateral Labour Agreements"
- 2015 OECD, ILO and World Bank research "The Contribution of Labor Mobility to Economic Growth"
- ECOWAS Capacity Building Toolkit
- Other
- None of the above

Please specify additional technical cooperation needed

Please indicate whether you need technical cooperation from the ILO with regard to migration for employment in any of the following areas:

- Development of labour migration policy
- Review and/or reform of applicable legislation.
- Development of national administrative infrastructures.
- Building capacity of workers' and employers' organizations.
- Strengthening labour inspection.
- Promotion of equality of treatment for migrant workers.
- Improved statistics on labour migration.
- Gender-specific issues of labour migration policy or practice
- Other
- None of the above

Please specify additional technical cooperation needed from the AUC, ILO, or the IOM

Please specify the information and data related to labour migration that your country collects

Please specify below which of the below types of information on labour migration would be useful for your policy-making.

- Statistics on labour migration across AU Member States
- Sharing of best practices across AU Member States
- Capacity building and/or frameworks for technical cooperation across Member States on labour migration
- Information on regional and interregional migration flows
- Best practices for issues concerning "brain drain"
- Employment abroad, foreign labour market assessments
- Gender dimensions of labour migration
- Youth dimensions of labour migration
- Using technology to manage labour migration
- Other
- None of the above

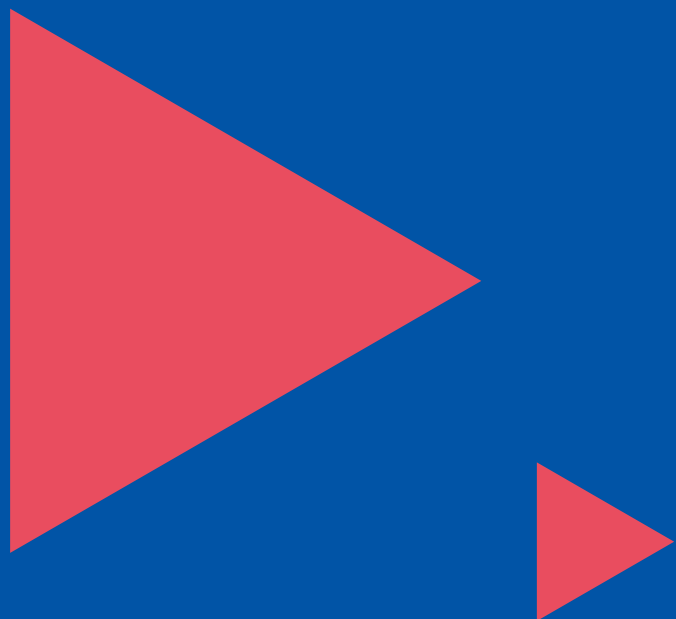
Please specify other useful information

Thank you for answering the survey



▶ Annex 4

- ▶ **Assessment of Labour Migration Legal Frameworks in Africa (ALMS) 2021. Qualitative Analysis.**
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INTRODUCTION

This analysis is based on the replies to the updated and revised International Labour Migration Survey sent out to the African continent in 2021. Previously, in 2014, the ILO sought to obtain information on how migration and the treatment of migrant workers were regulated via laws, policies and administrative measures. The ILMS also sought to understand the role played by bilateral and multilateral agreements and how tripartite partners partake in the development and implementation of ILO instruments. The 2021 survey aimed at assessing existing labour law provisions in AU member states and RECs; ensuring their relevance to labour migration governance coordination measures; and assessing their level of gender responsiveness. Replies to the survey were received from 35 African countries²⁵⁴.

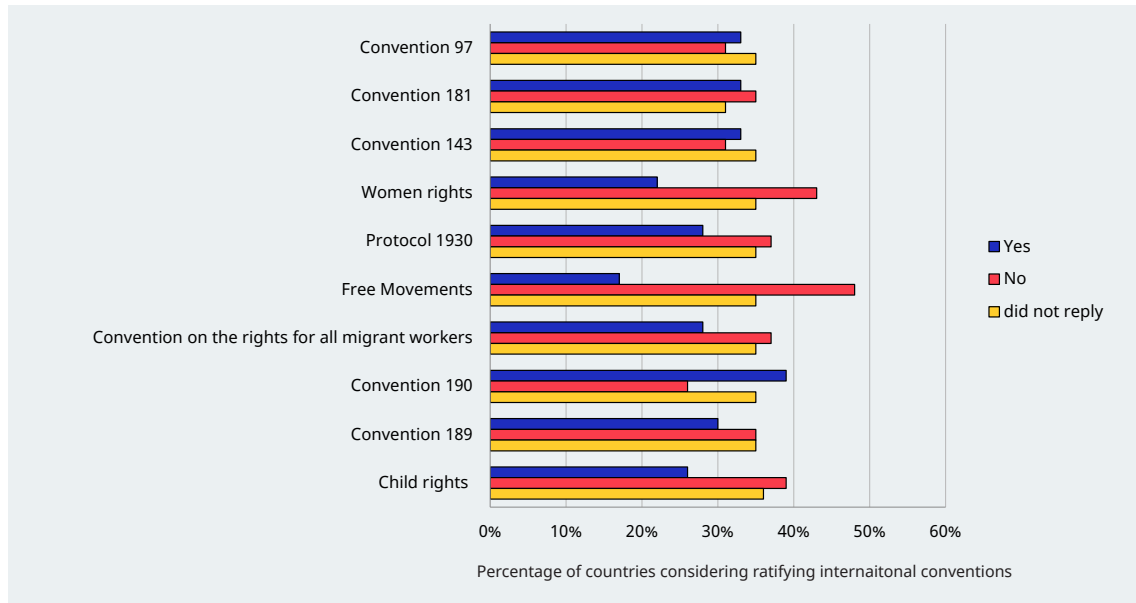
The survey results focus on the initial ten countries that were used in 2014 and four additional countries which were selected because of their geographical distribution and significant migration flows in and out of the country. The 14 countries include Algeria, Cameroon, Democratic Republic of Congo, Egypt, Ethiopia, Côte d'Ivoire, Kenya, Morocco, Nigeria, Somalia, South Africa, Sudan, Uganda and Zimbabwe.

²⁵⁴ Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Comoros, Democratic Republic of Congo, Djibouti, Eswatini, Ethiopia, Gambia, Ghana, Guinea, Côte d'Ivoire, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mauritania, Morocco, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Zambia, Zimbabwe

QUANTITATIVE ANALYSIS

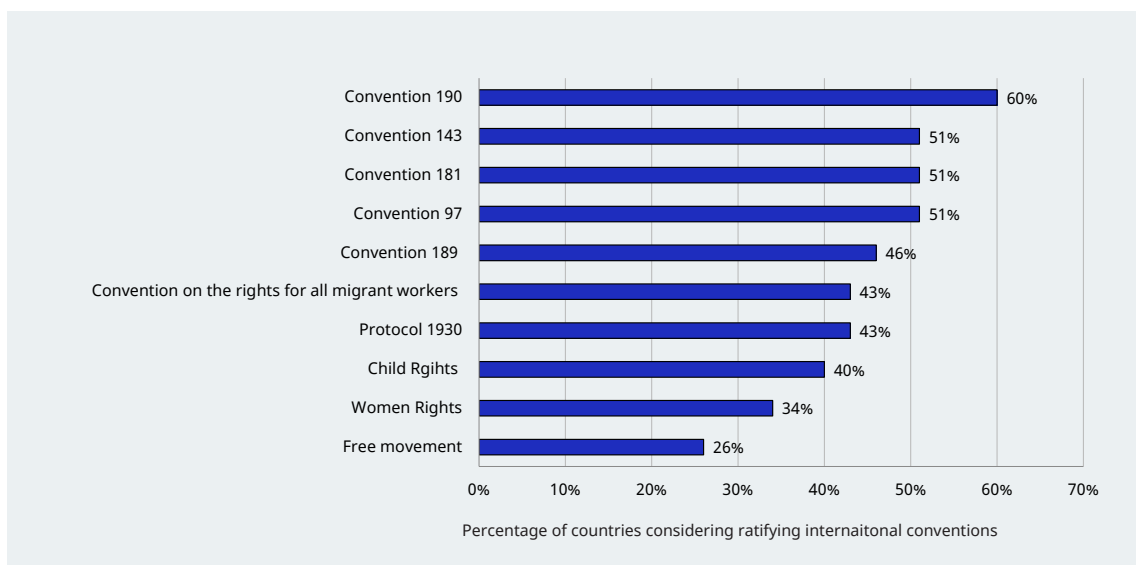
Section I Adherence to international legal frameworks and labour standards

► Figure 1 Considering ratifying international conventions



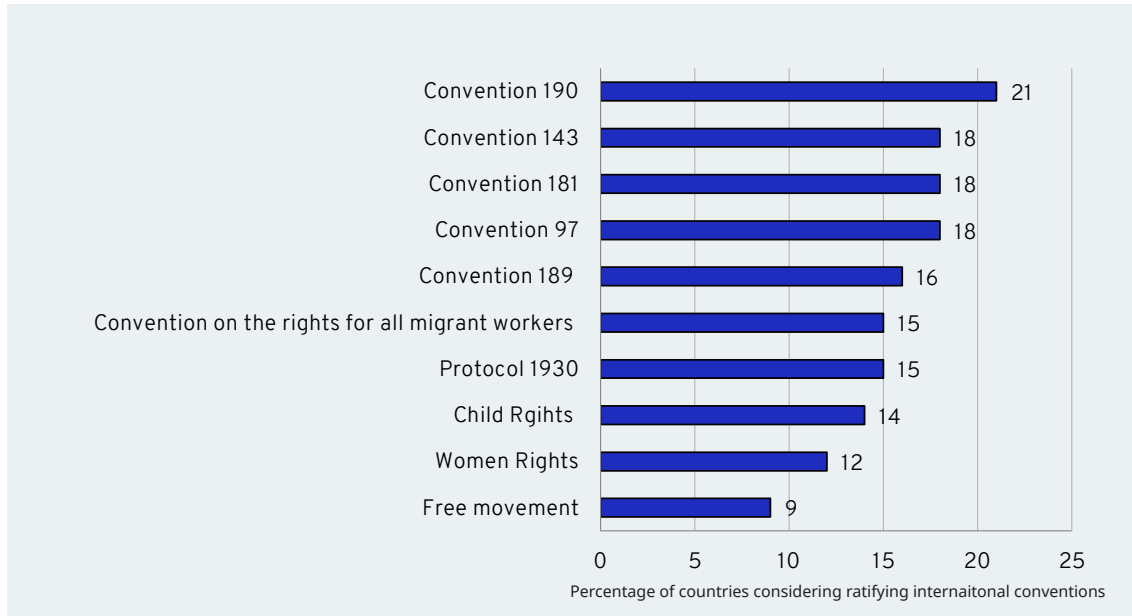
► Figure 2 Considering ratifying international conventions

**Only captures respondents who selected yes*



► **Figure 3 Considering ratifying international conventions**

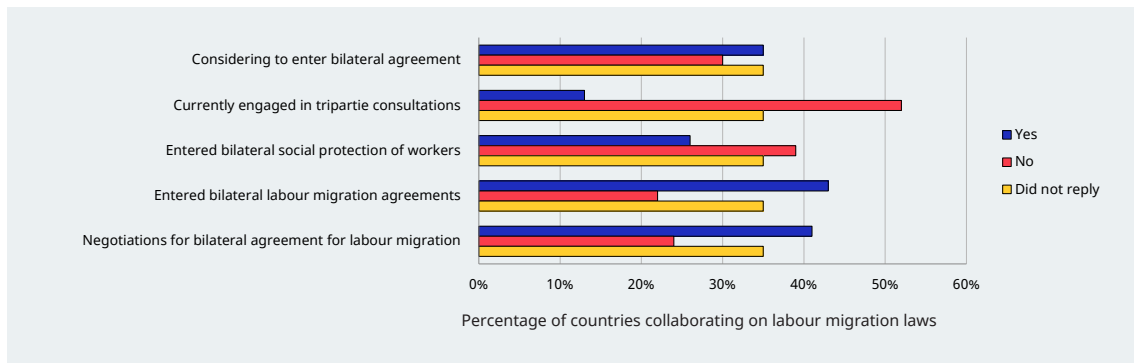
*Only captures respondents who selected yes

► **Table 1: Countries considering ratifying international conventions**

Country	Conv 97	Conv 143	Conv 181	Conv 189	Conv 190	Conv 1930	International conv	Free movement	Child rights	Women rights	Human
Rights											
Algeria	yes	yes	yes	no	no	yes	yes	yes	yes	yes	yes
Cameroon	no	no	no	yes	yes	no	no	no	no	no	no
DRC	yes	yes	yes	no	no	yes	yes	no	no	no	no
Egypt	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	yes	yes	no	no	yes	yes	yes	yes	yes	yes	-
Côte d'Ivoire	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Kenya	no	no	yes	yes	yes	no	yes	no	no	no	no
Morocco	no	no	no	no	no	no	no	no	no	no	no
Nigeria	yes	yes	yes	no	no	no	no	no	no	no	-
Somalia	no	no	no	no	no	yes	yes	yes	yes	yes	no
South Africa	-	-	-	-	-	-	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes	yes	yes	no	yes	yes	yes
Uganda	-	-	-	-	-	-	-	-	-	-	-
Zimbabwe	yes	yes	no	no	yes	no	no	no	no	no	no

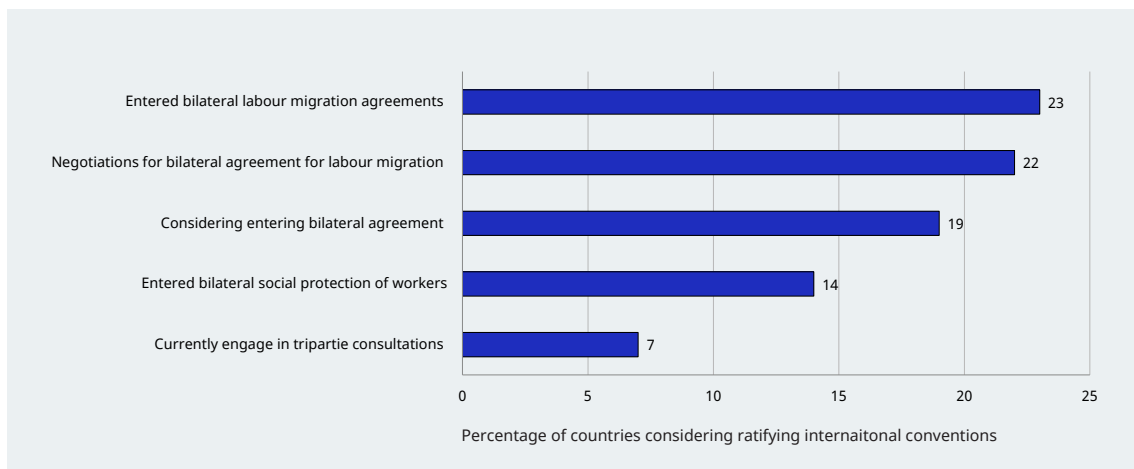
Section II International cooperation

► Figure 4 International cooperation on labour migration agreements



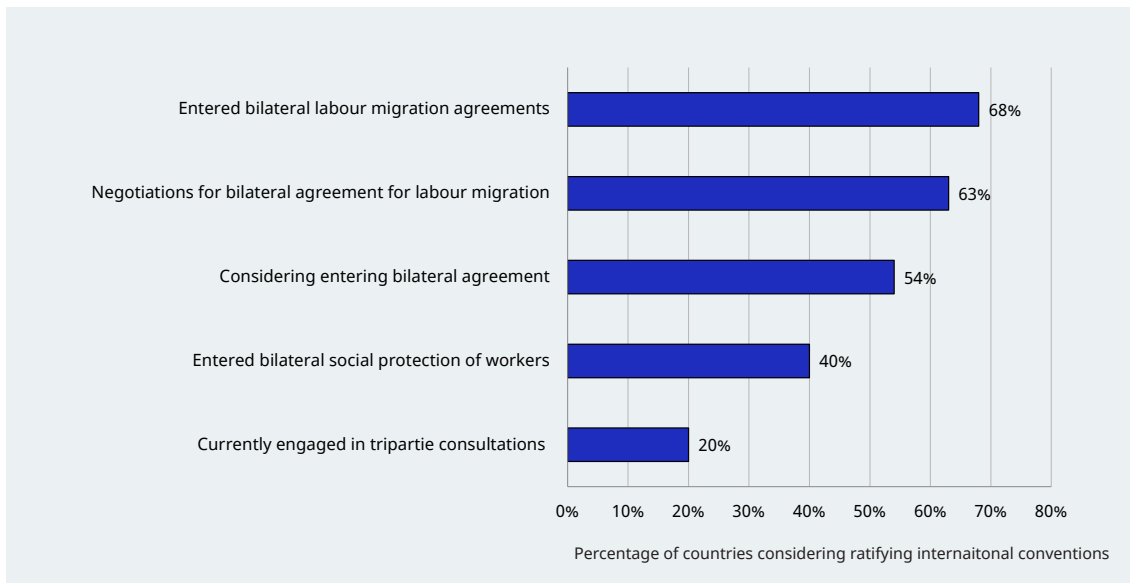
► Figure 5 Participation in bilateral and other agreements on labour migration

**Only captures respondents who selected yes*



► **Figure 6 International cooperation on labour migration agreements**

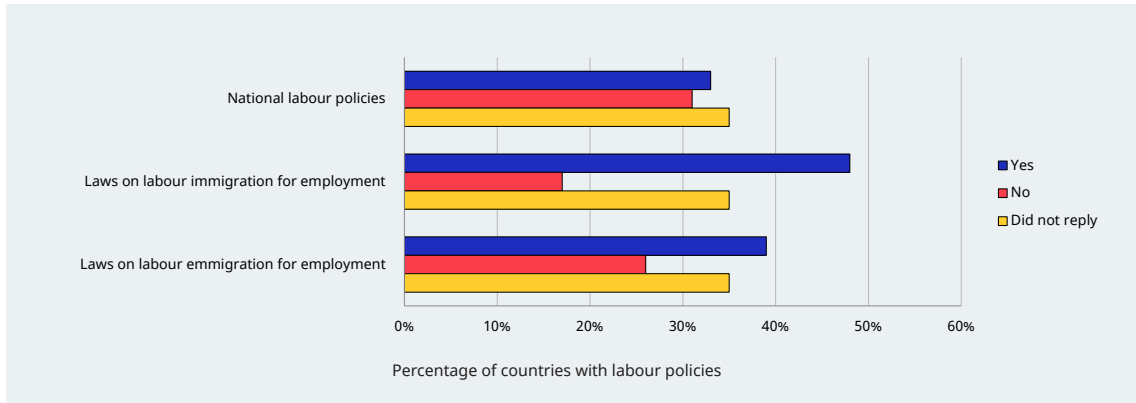
*Only captures respondents who selected yes

► **Table 2: International cooperation on labour migration agreements**

Country	Bilateral labour migration agreements	Bilateral social protection agreements	Negotiations for entering into a bilateral agreement	Considering entering into a bilateral agreement	Engaged in tripartite consultations with REC actors
Algeria	yes	yes	yes	yes	no
Cameroon	yes	no	yes	yes	no
Democratic Republic of Congo	no	no	yes	no	no
Egypt	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	yes
Côte d'Ivoire	yes	no	yes	yes	no
Kenya	yes	no	yes	no	no
Morocco	yes	yes	no	no	no
Nigeria	no	no	yes	yes	yes
Somalia	no	no	yes	yes	yes
South Africa	-	-	-	-	-
Sudan	yes	no	yes	yes	yes
Uganda	-	-	-	-	-
Zimbabwe	yes	no	yes	yes	no

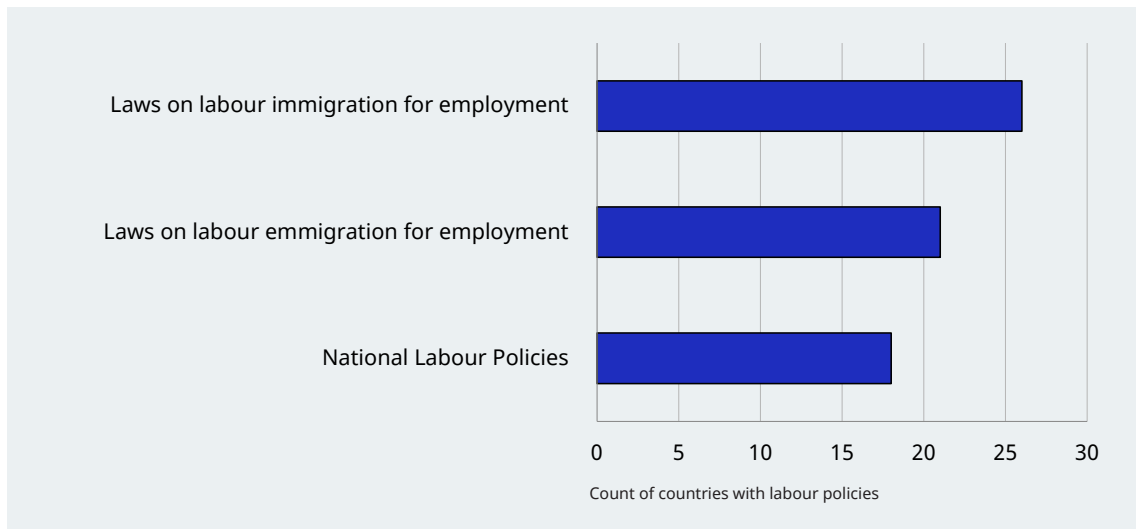
Section III National policies and legal frameworks

► Figure 7 Labour migration policies



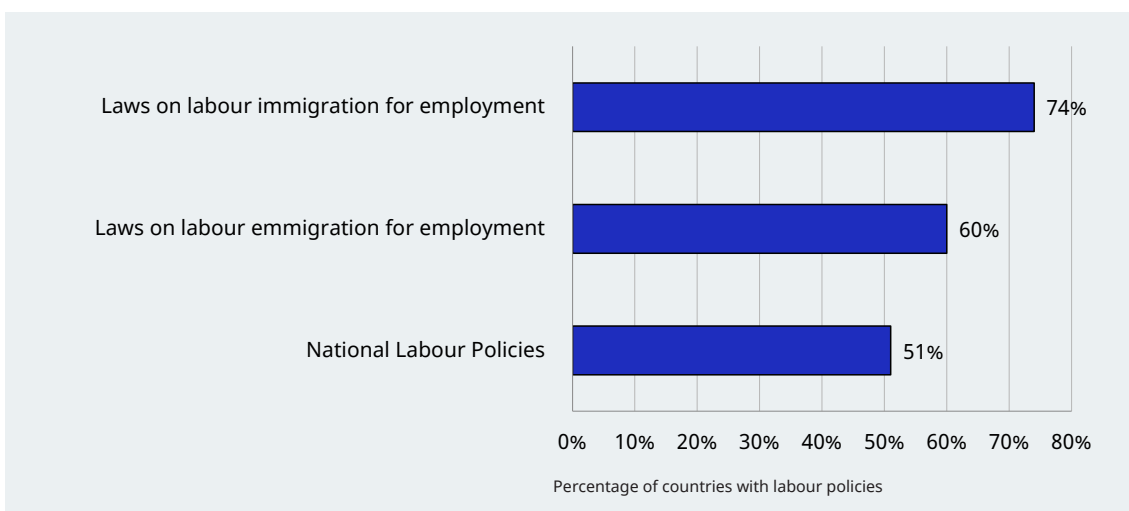
► Figure 8 Labour migration policies

**Only captures respondents who selected yes*



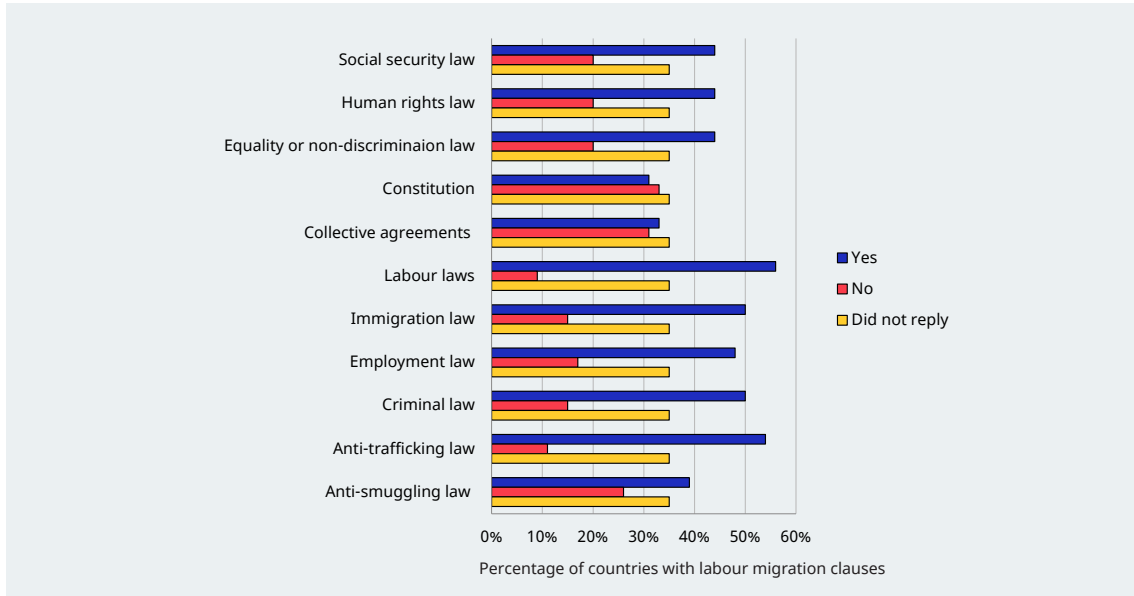
► **Figure 9 : Labour migration policies**

*Only captures respondents who selected yes

► **Table 3: Countries with labour migration policies**

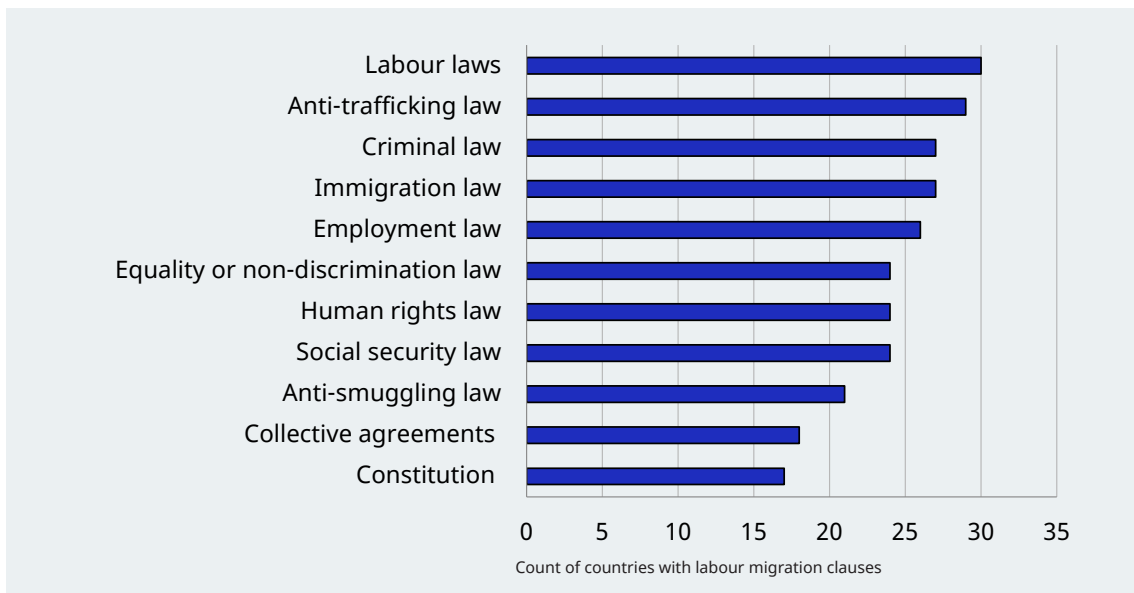
Country	National policy	Immigration employment laws	Emigration employment laws
Algeria	yes	yes	yes
Cameroon	no	no	no
Democratic Republic of Congo	no	yes	no
Egypt	-	-	-
Ethiopia	no	yes	no
Côte d'Ivoire	no	no	yes
Kenya	no	no	no
Morocco	yes	yes	yes
Nigeria	yes	yes	no
Somalia	no	no	no
South Africa	-	-	-
Sudan	yes	yes	yes
Uganda	-	-	-
Zimbabwe	yes	yes	yes

► Figure 10 Labour migration clauses

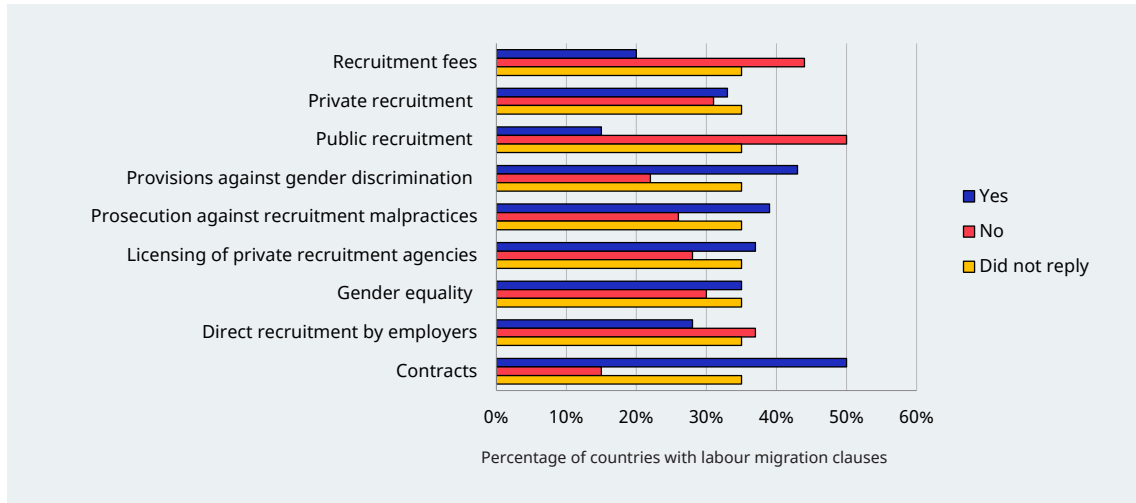


► Figure 11 Labour migration clauses

**Only captures respondents who selected yes*

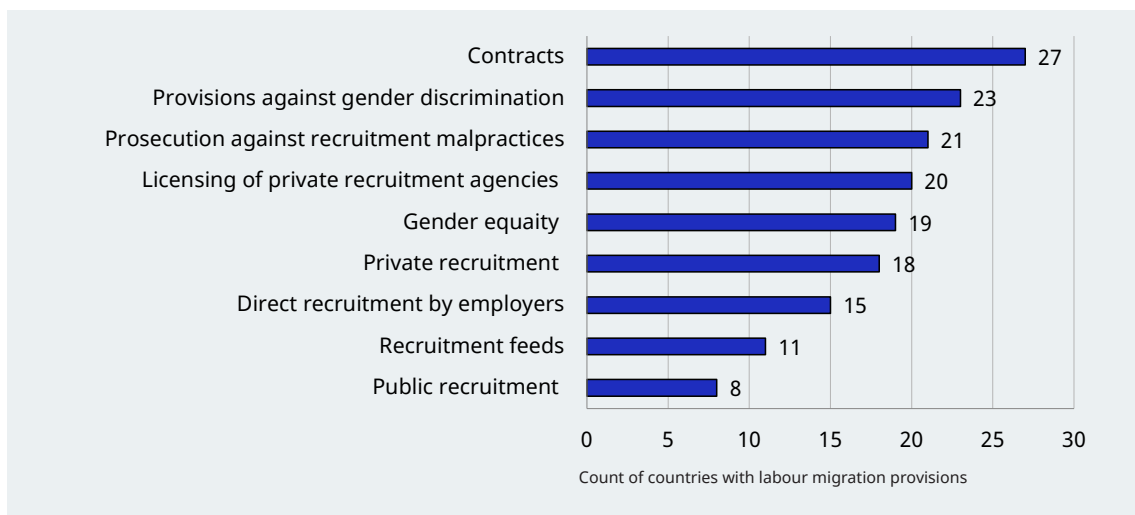


► Figure 13 Labour migration provisions



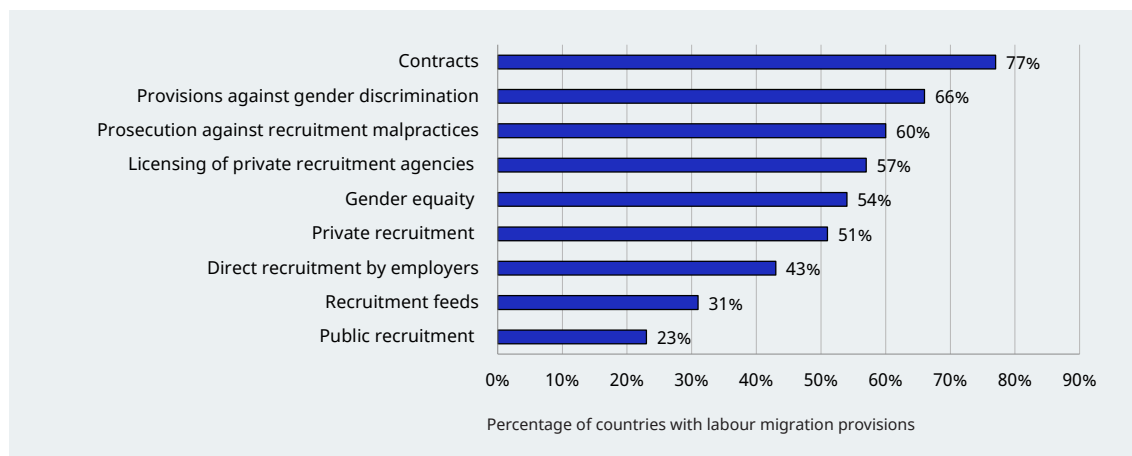
► Figure 14 Labour migration provisions

**Only captures respondents who selected yes*



► **Figure 15 Labour migration provisions**

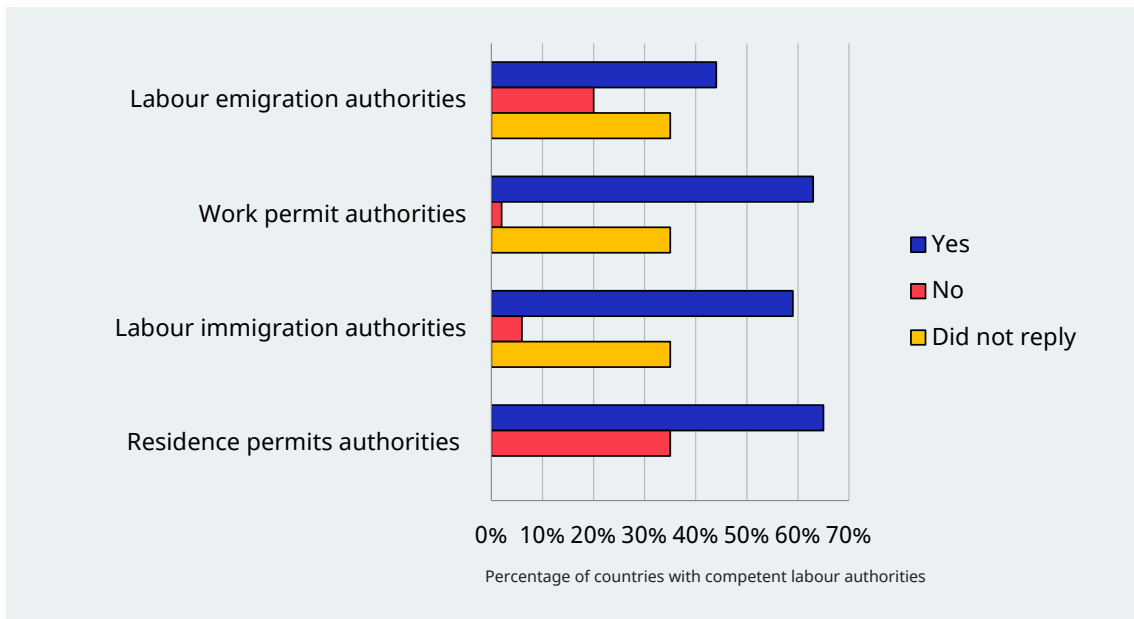
*Only captures respondents who selected yes

► **Table 5: Labour migrations provisions per country**

Country	Contracts	Public recruitment	Direct recruitment	Private recruitment	Licensing	Prosecution against recruitment malpractices	Prosecution against gender discrimination	Gender equality	Migration fees
Algeria	yes	yes	yes	no	no	yes	yes	yes	no
Cameroon	yes	no	yes	no	no	no	no	no	no
Democratic Republic of Congo	yes	no	no	no	no	no	yes	no	no
Egypt	-	-	-	-	-	-	-	-	-
Ethiopia	yes	no	no	yes	yes	yes	yes	yes	no
Côte d'Ivoire	yes	no	no	no	no	no	no	no	no
Kenya	no	no	no	yes	yes	no	no	no	no
Morocco	yes	yes	no	yes	yes	yes	yes	yes	no
Nigeria	yes	yes	no	yes	yes	yes	yes	yes	yes
Somalia	no	no	no	no	no	no	no	no	no
South Africa	-	-	-	-	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes	yes	yes	yes	yes
Uganda	-	-	-	-	-	-	-	-	-
Zimbabwe	no	no	yes	no	no	yes	yes	no	no

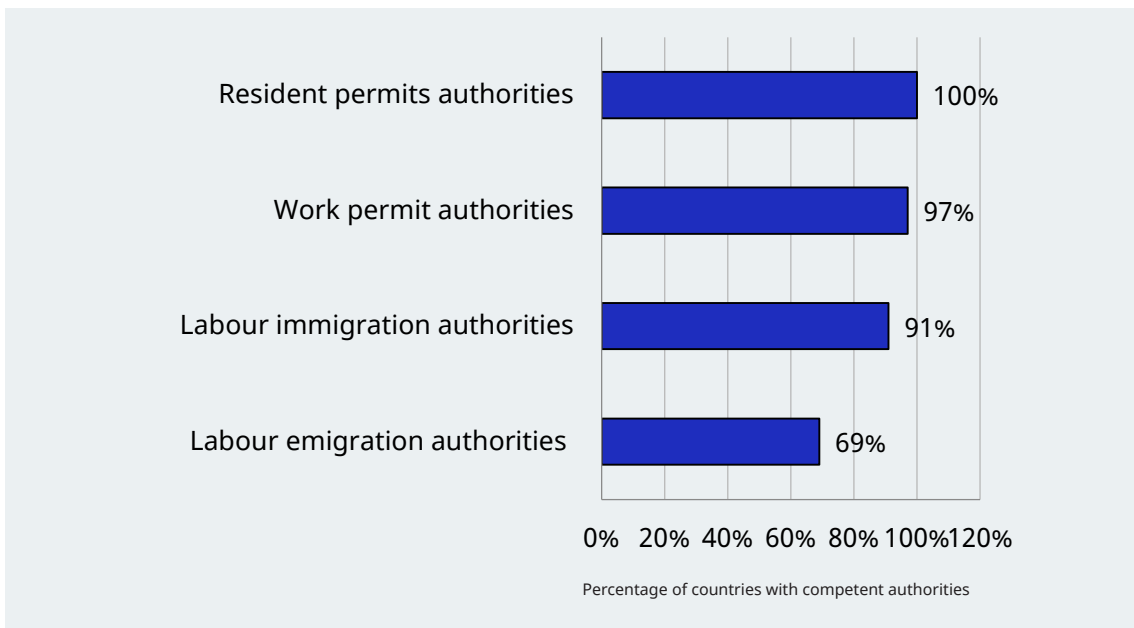
Section IV Institutions and labour migrations

► Figure 16 Authorities responsible for labour policies



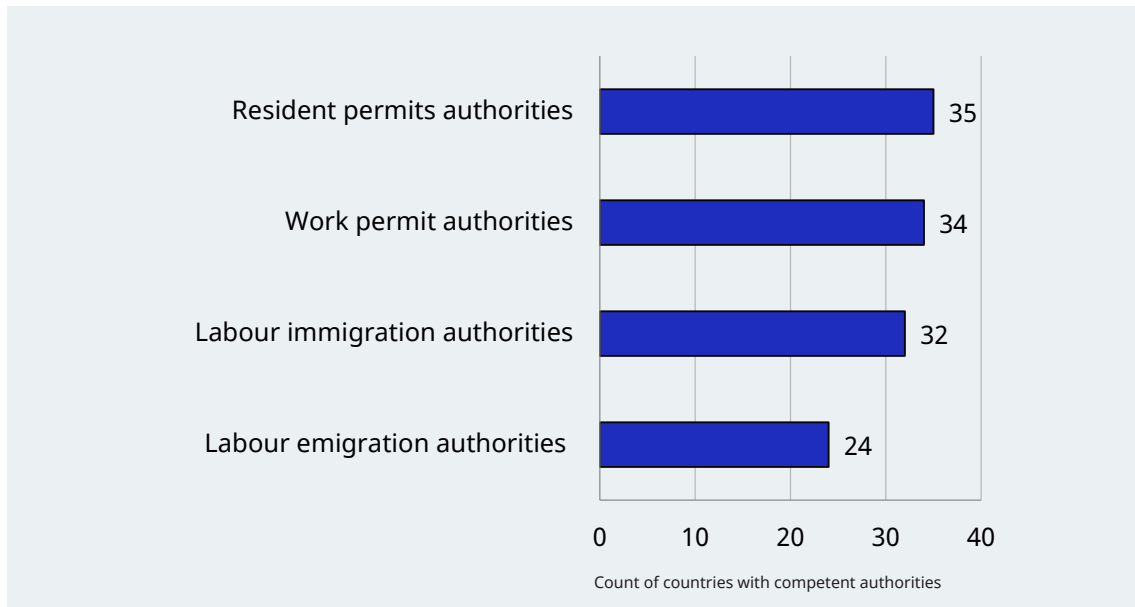
► Figure 17 Authorities responsible for labour policies

**Only captures respondents who selected yes*



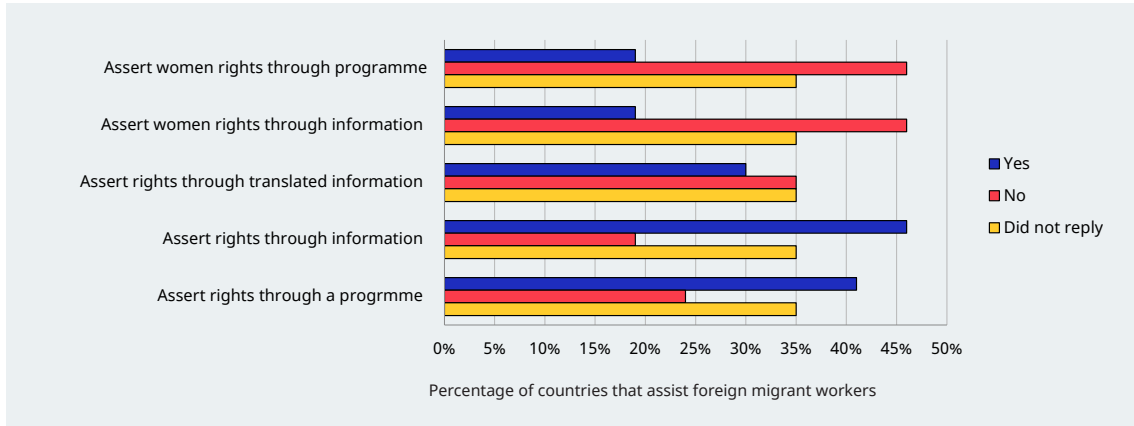
► **Figure 18 Authorities responsible for labour policies**

*Only captures respondents who selected yes

► **Table 6: Authorities responsible for labour policies per country**

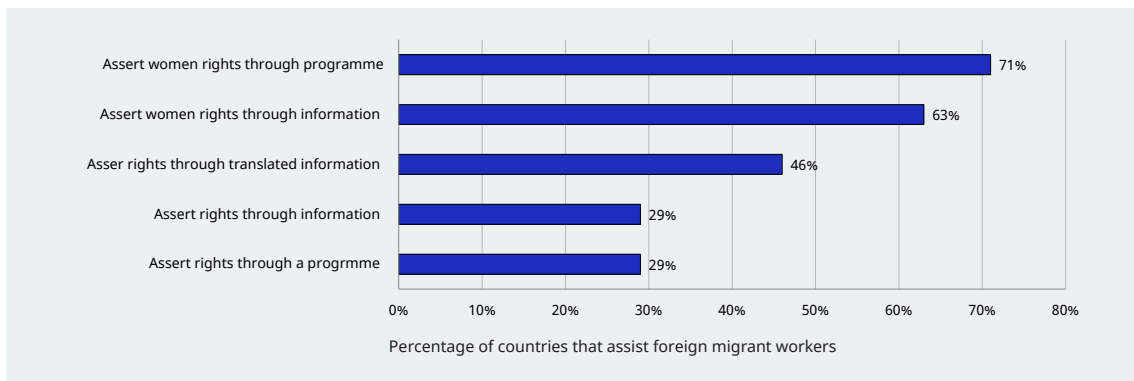
Country	Immigration authorities	Work permit authorities	Residence permits authorities	Emigration authorities
Algeria	yes	yes	yes	yes
Cameroon	yes	yes	yes	no
Democratic Republic of Congo	yes	yes	yes	no
Egypt	-	-	-	-
Ethiopia	yes	yes	yes	yes
Côte d'Ivoire	yes	yes	yes	no
Kenya	no	yes	yes	no
Morocco	yes	yes	yes	yes
Nigeria	yes	yes	yes	yes
Somalia	no	yes	yes	yes
South Africa	-	-	-	-
Sudan	yes	yes	yes	yes
Uganda	-	-	-	-
Zimbabwe	yes	yes	yes	yes

► **Figure 19 Minister of labour assisting migrant workers to assert their rights**



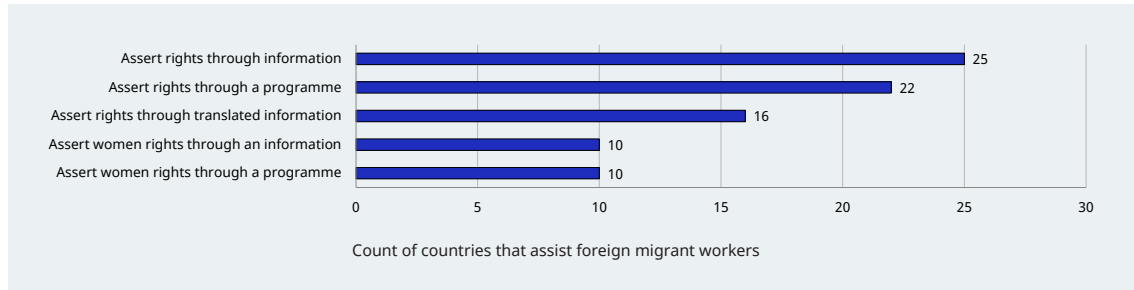
► **Figure 20 Minister of labour assisting migrant workers to assert their rights**

**Only captures respondents who selected yes*



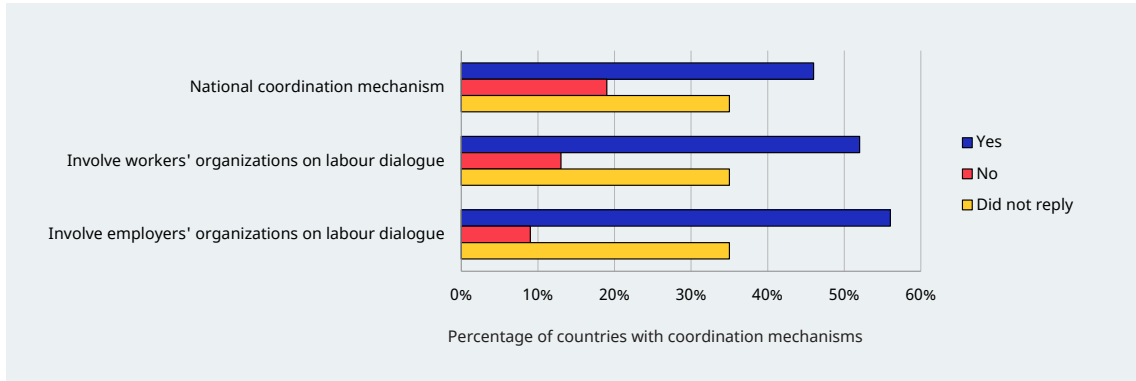
► **Figure 21 Ministry of labour assisting migrant workers to assert their rights**

*Only captures respondents who selected yes

► **Table 7: Ministerial assistance to workers to assert their rights per country**

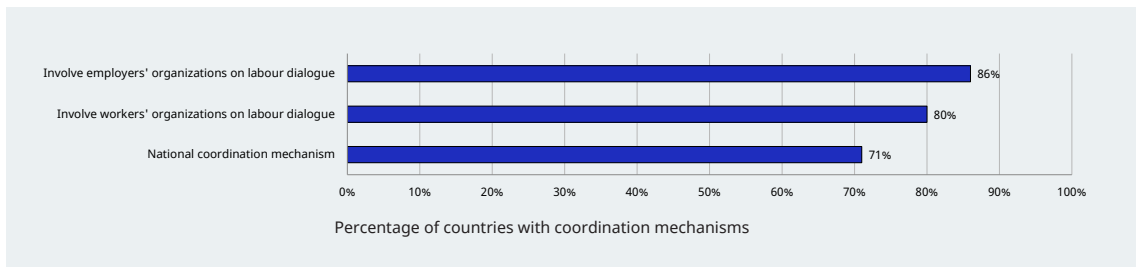
Country	Assert migrants' rights through a programme	Assert migrants' rights through information	Assert migrants' rights through translated information	Assert migrants' rights through womens' programme	Assert women migrants' rights through information
Algeria	yes	yes	yes	yes	yes
Cameroon	no	no	no	no	no
Democratic Republic of Congo	yes	yes	no	no	no
Egypt	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	no
Côte d'Ivoire	no	yes	no	no	no
Kenya	yes	no	no	no	no
Morocco	no	no	no	yes	no
Nigeria	yes	yes	yes	no	yes
Somalia	no	yes	no	no	no
South Africa	-	-	-	-	-
Sudan	yes	yes	yes	no	no
Uganda	-	-	-	-	-
Zimbabwe	yes	yes	yes	yes	yes

► **Figure 22 Coordination mechanisms**



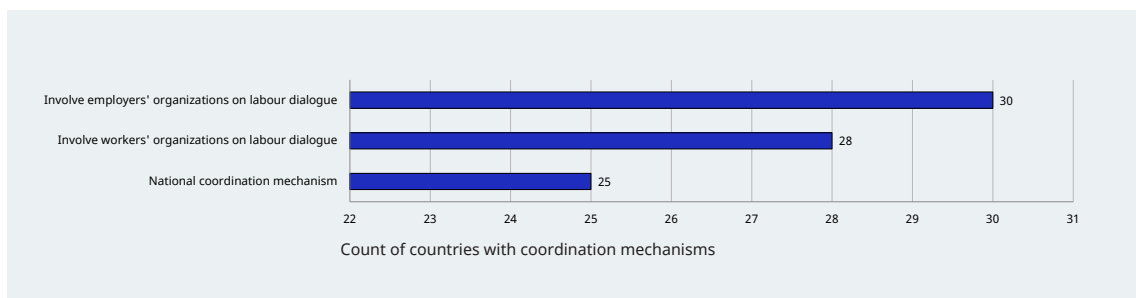
► **Figure 23 Coordination mechanisms**

**Only captures respondents who selected yes*



► **Figure 24 Coordination mechanisms**

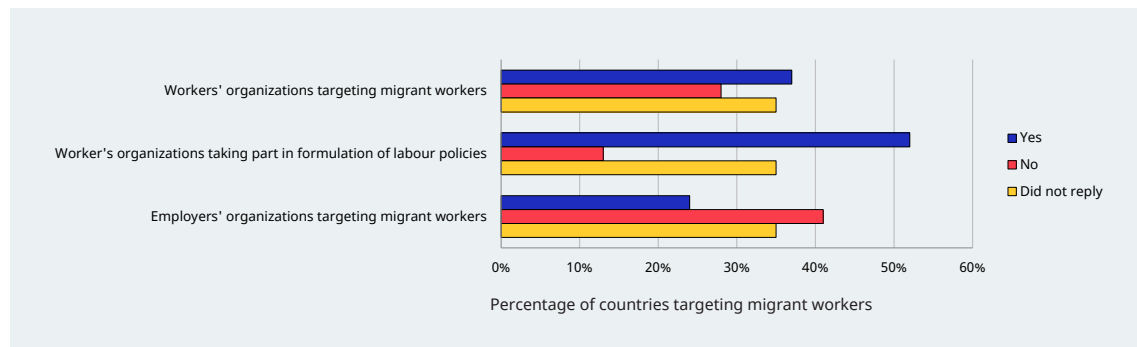
**Only captures respondents who selected yes*



► **Table 8: Coordination mechanisms per country**

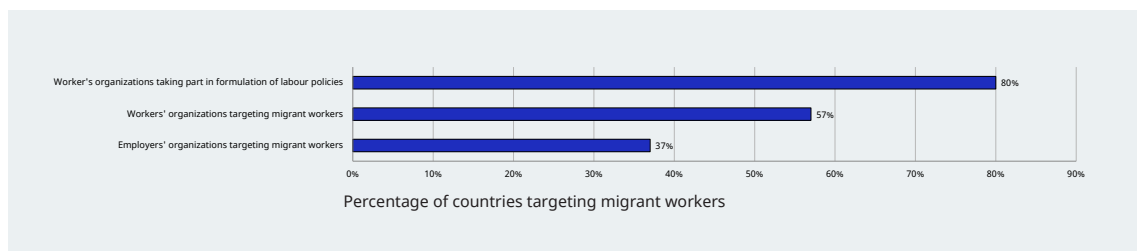
Country	National coordination mechanism	Involvement of workers organisations	Involvement of employers' organisations
Algeria	yes	yes	yes
Cameroon	no	yes	yes
Democratic Republic of Congo	no	no	no
Egypt	-	-	-
Ethiopia	yes	yes	yes
Côte d'Ivoire	no	yes	yes
Kenya	yes	yes	yes
Morocco	no	no	no
Nigeria	yes	yes	yes
Somalia	no	yes	yes
South Africa	-	-	-
Sudan	yes	yes	yes
Uganda	-	-	-
Zimbabwe	yes	yes	yes

► **Figure 25 Workers organisations' targeting migrant workers**



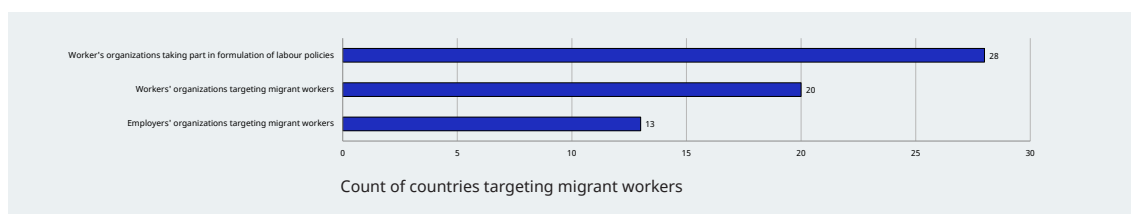
► **Figure 26 Workers organisations' targeting migrant workers**

*Only captures respondents who selected yes



► **Figure 27 Workers organisations' targeting migrant workers**

*Only captures respondents who selected yes

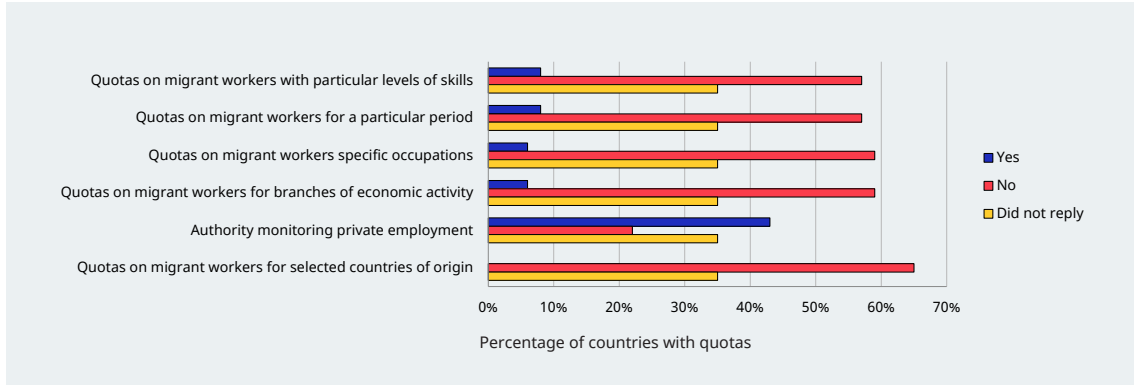


► **Table 9: Countries where workers' organisations target migrant workers**

Country	Employer organisations taking part in formulation of labour migration laws	Workers' organisations targeting migrants through activities	Employers' organisations targeting migrants through activities
Algeria	yes	yes	yes
Cameroon	no	no	no
Democratic Republic of Congo	no	no	yes
Egypt	-	-	-
Ethiopia	yes	no	no
Côte d'Ivoire	no	no	no
Kenya	yes	yes	no
Morocco	no	yes	no
Nigeria	yes	yes	yes
Somalia	yes	yes	no
South Africa	-	-	-
Sudan	yes	no	no
Uganda	-	-	-
Zimbabwe	yes	yes	yes

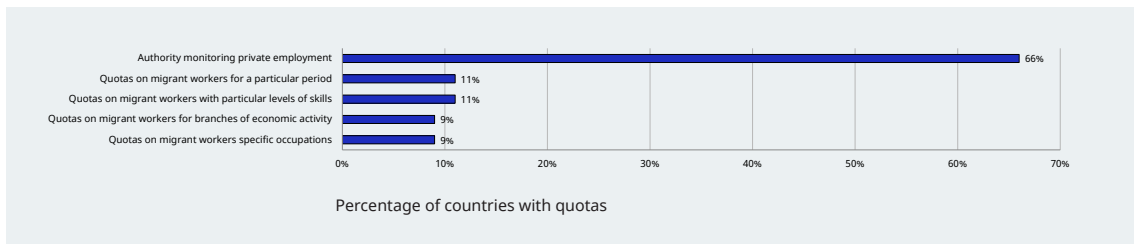
Section V Implementation of policies and monitoring structures

► Figure 28 Quotas on migrant workers' admission



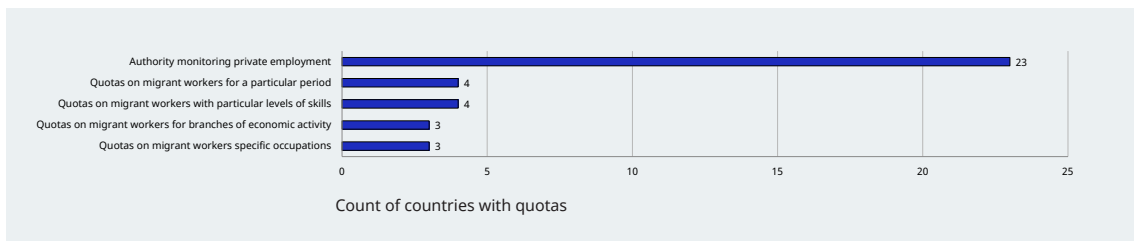
► Figure 29 Quotas on migrant workers' admission

*Only captures respondents who selected yes



► Figure 30: Quotas on migrant workers' admission

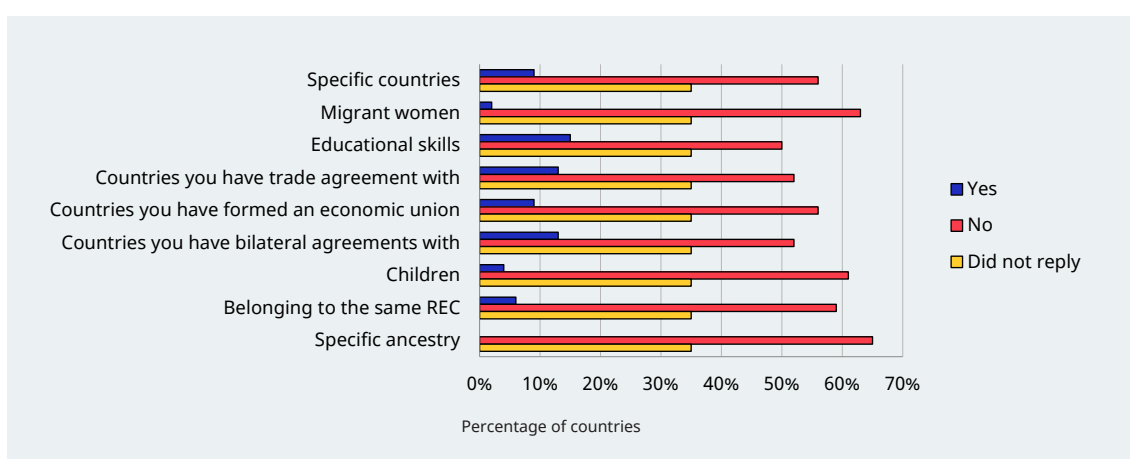
*Only captures respondents who selected yes



► **Table 10: Quotas on migrant workers' admission per country**

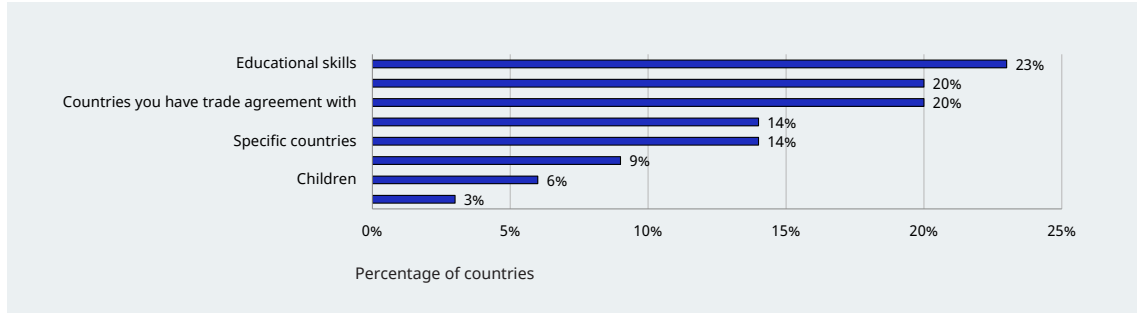
Country	Authority monitoring private employment	Quotas for a period	Quotas for countries of origin	Quotas for branches of economic activity	Quotas for specific occupations	Quotas for particular skills
Algeria	yes	no	no	no	no	no
Cameroon	yes	no	no	no	no	no
Democratic Republic of Congo	yes	no	no	no	no	no
Egypt	-	-	-	-	-	-
Ethiopia	no	no	no	no	no	no
Côte d'Ivoire	yes	no	no	no	no	no
Kenya	yes	no	no	no	no	no
Morocco	no	no	no	no	no	no
Nigeria	yes	no	no	no	no	no
Somalia	yes	no	no	no	no	no
South Africa	-	-	-	-	-	-
Sudan	yes	no	no	no	no	no
Uganda	-	-	-	-	-	-
Zimbabwe	yes	no	no	no	no	no

► **Figure 31: Preferential treatment during admission**



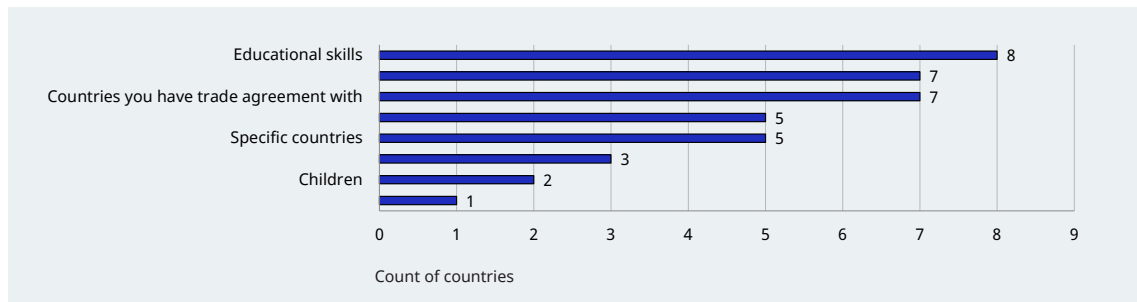
► **Figure 32 Quotas on migrant workers' admission**

**Only captures respondents who selected yes*



► **Figure 33: Quotas on migrant workers' admission**

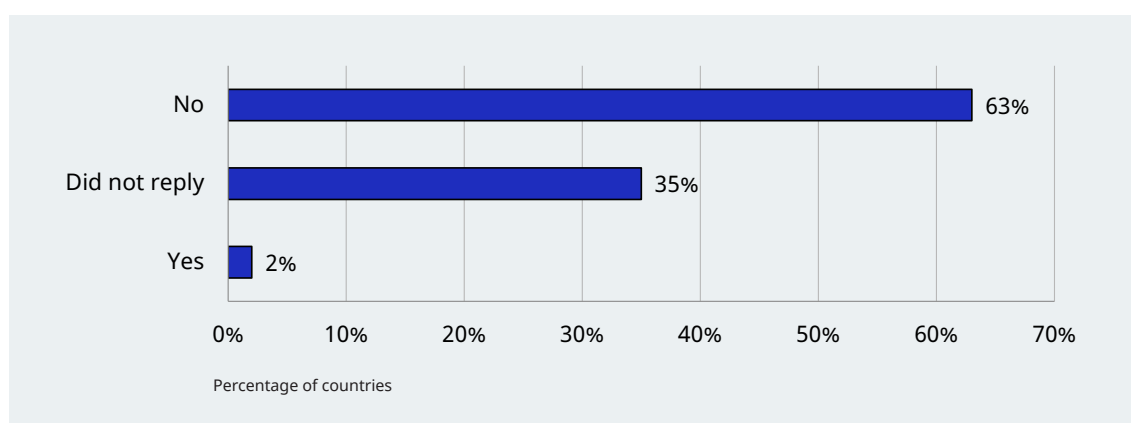
**Only captures respondents who selected yes*



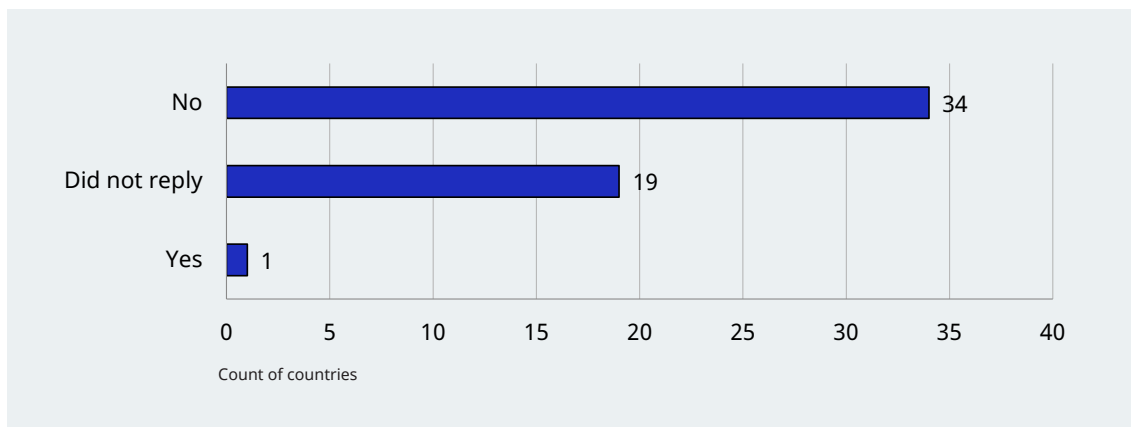
► **Table 11: Preferential treatment during admission per country**

Country	Specific countries	Bilateral	Trade	Economic union	Ancestry	REC	Skills	Women	Children
Algeria	no	yes	yes	yes	no	yes	yes	no	no
Cameroon	no	no	no	no	no	no	no	no	no
Democratic Republic of Congo	no	no	no	no	no	no	no	no	no
Egypt	-	-	-	-	-	-	-	-	-
Ethiopia	no	yes	no	no	no	no	no	yes	yes
Côte d'Ivoire	no	no	no	no	no	no	no	no	no
Kenya	no	no	no	no	no	no	no	no	no
Morocco	yes	yes	no	no	no	no	no	no	no
Nigeria	yes	yes	yes	yes	no	no	no	no	no
Somalia	no	no	no	no	no	no	no	no	no
South Africa	-	-	-	-	-	-	-	-	-
Sudan	no	no	no	no	no	no	no	no	no
Uganda	-	-	-	-	-	-	-	-	-
Zimbabwe	no	no	no	no	no	no	yes	no	no

► **Figure 34: Admission excluded for specific countries**



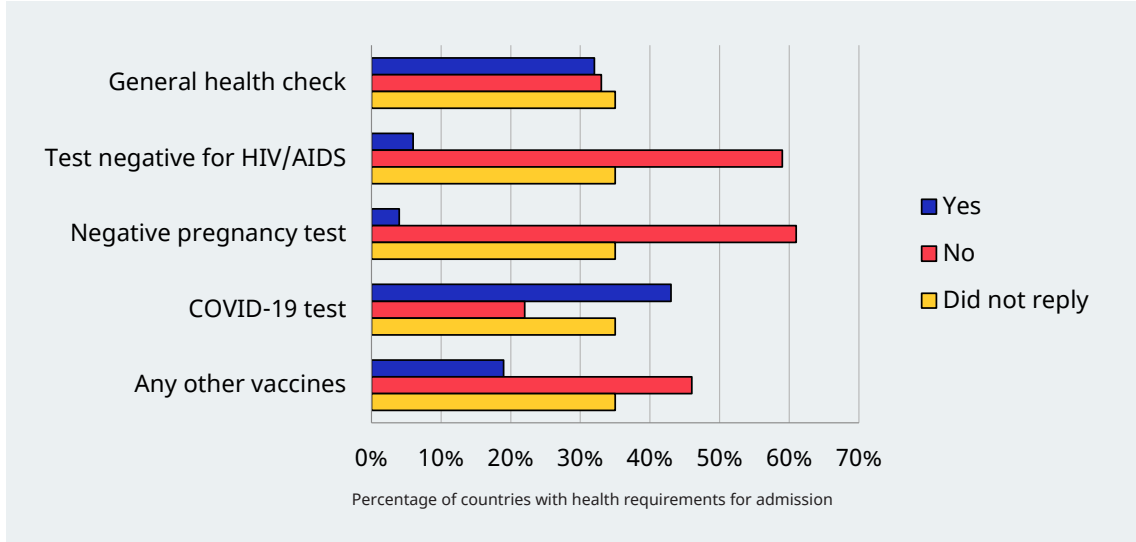
► Figure 35: Admission excluded for specific countries



► Table 12: Admission exclusion for specific countries' nationals per country

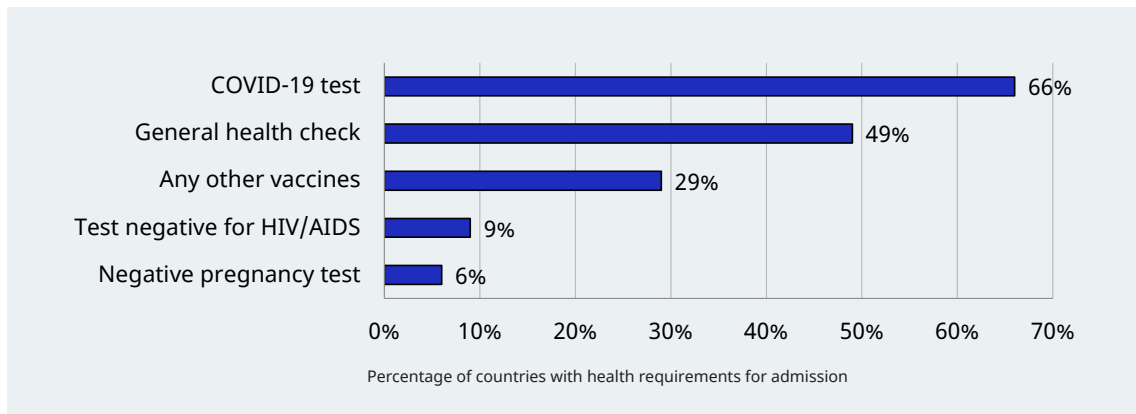
Country	Admission excluded
Algeria	no
Cameroon	no
Democratic Republic of Congo	no
Egypt	-
Ethiopia	no
Côte d'Ivoire	yes
Kenya	no
Morocco	no
Nigeria	no
Somalia	no
South Africa	-
Sudan	no
Uganda	-
Zimbabwe	no

► **Figure 36: Health requirements for admission**



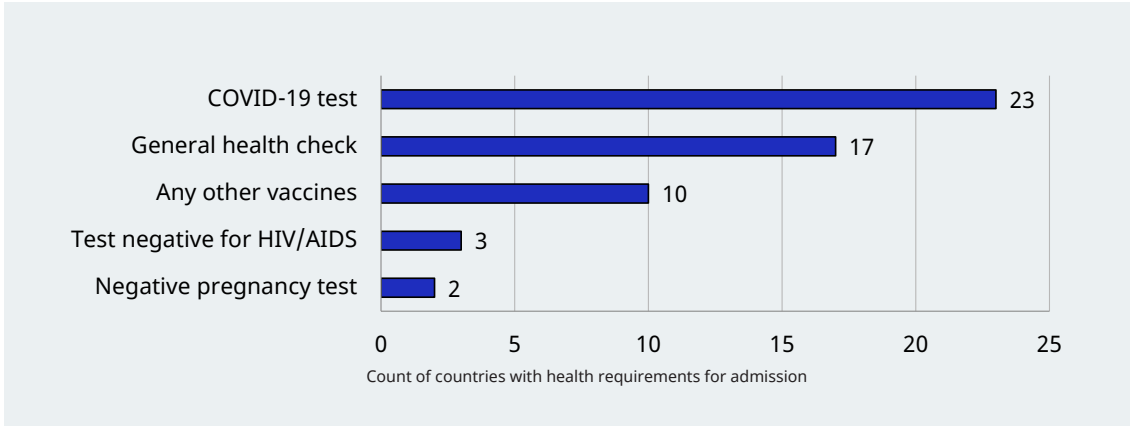
► **Figure 37: Health requirements for admission**

**Only captures respondents who selected yes*



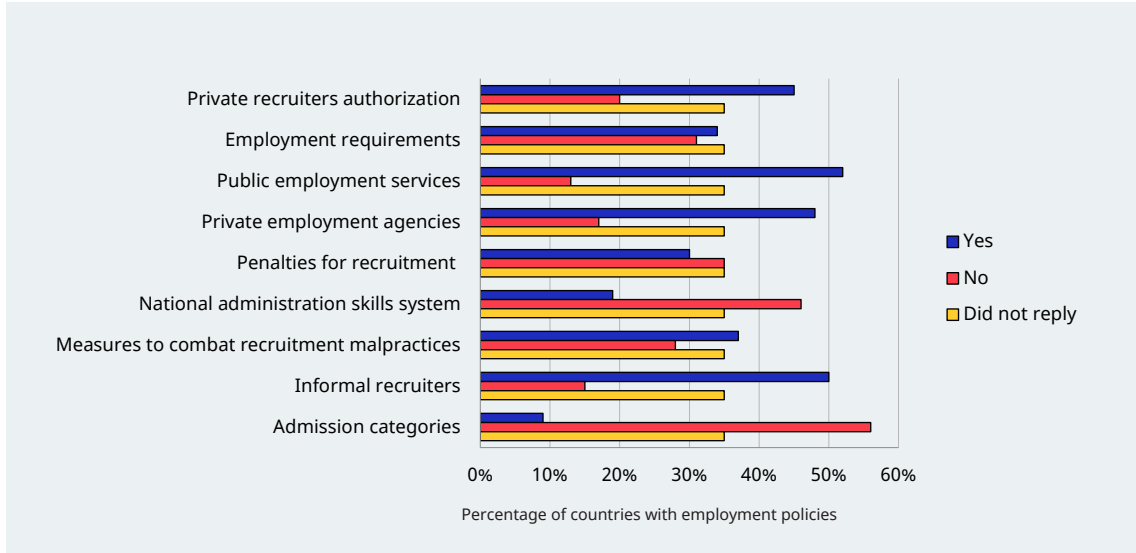
► **Figure 38: Health requirements for admission**

*Only captures respondents who selected yes

► **Table 13: Health requirements for admission per country**

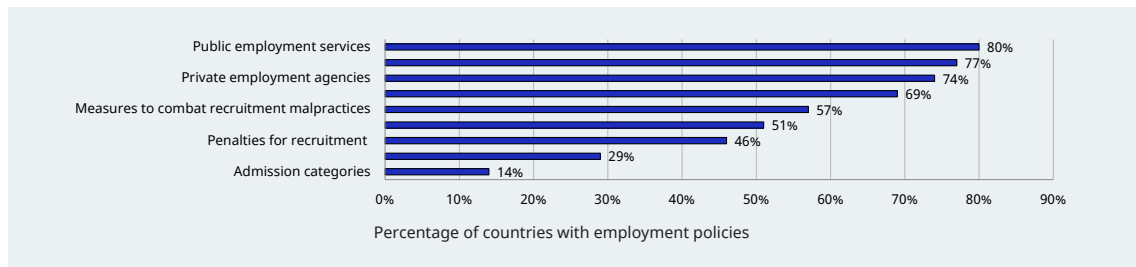
Country	General Health Check	Negative for HIV/AIDS	COVID-19 test	Immunisations	Negative pregnancy test
Algeria	yes	no	yes	yes	no
Cameroon	no	no	no	no	no
Democratic Republic of Congo	no	no	no	no	no
Egypt	-	-	-	-	-
Ethiopia	no	yes	yes	no	yes
Côte d'Ivoire	no	no	no	no	no
Kenya	no	no	yes	no	no
Morocco	yes	no	yes	no	no
Nigeria	no	no	yes	no	no
Somalia	no	no	no	no	no
South Africa	-	-	-	-	-
Sudan	no	no	yes	no	no
Uganda	-	-	-	-	-
Zimbabwe	yes	no	no	no	no

► Figure 39: Employment policies



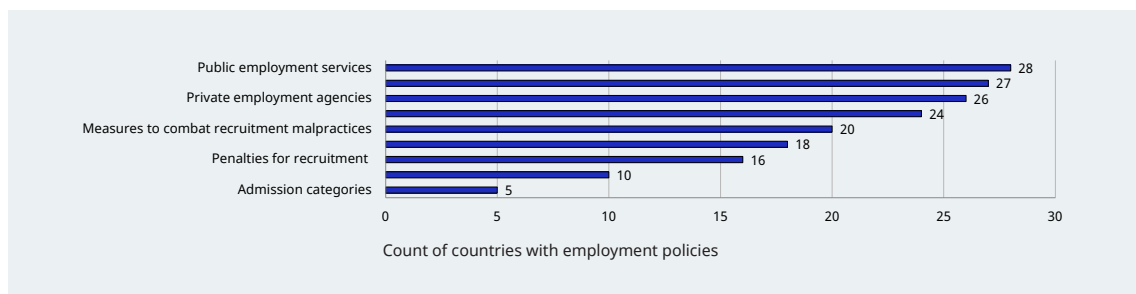
► Figure 40: Employment policies

**Only captures respondents who selected yes*



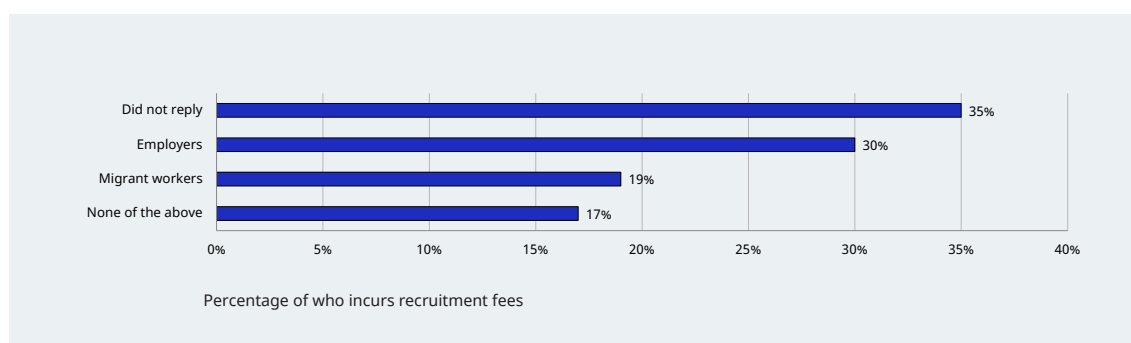
► Figure 41: Employment policies

**Only captures respondents who selected yes*

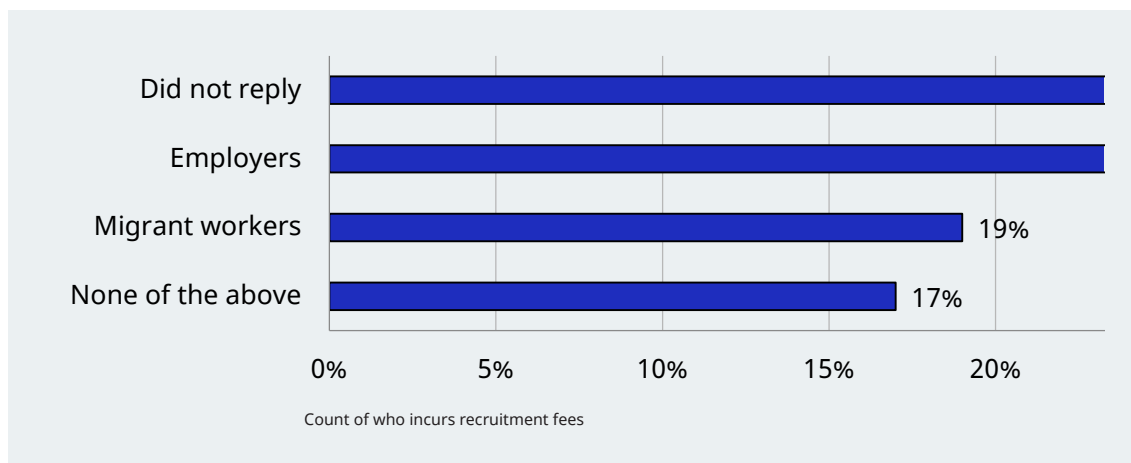


► **Table 14: Employment policies per country**

Country	Admission categories	Skills' system	Employment recruitment	Private agencies	Public agencies	Informal recruiters	Private recruiters	Penalties for malpractices	Measures for malpractices
Algeria	no	no	yes	yes	yes	no	no	yes	yes
Cameroon	no	no	yes	yes	yes	yes	yes	no	no
Democratic Republic of Congo	no	no	yes	yes	yes	yes	yes	yes	yes
Egypt	-	-	-	-	-	-	-	-	-
Ethiopia	no	no	no	no	no	yes	yes	no	no
Côte d'Ivoire	no	no	no	no	yes	no	yes	no	no
Kenya	no	no	no	no	no	yes	yes	no	no
Morocco	no	yes	no	yes	yes	yes	yes	yes	no
Nigeria	no	no	no	yes	yes	yes	yes	yes	yes
Somalia	no	no	no	no	no	yes	yes	no	no
South Africa	-	-	-	-	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes	yes	yes	yes	yes
Uganda	-	-	-	-	-	-	-	-	-
Zimbabwe	no	yes	yes	yes	yes	yes	yes	yes	yes

► **Figure 42: Who incurs recruitment fees**

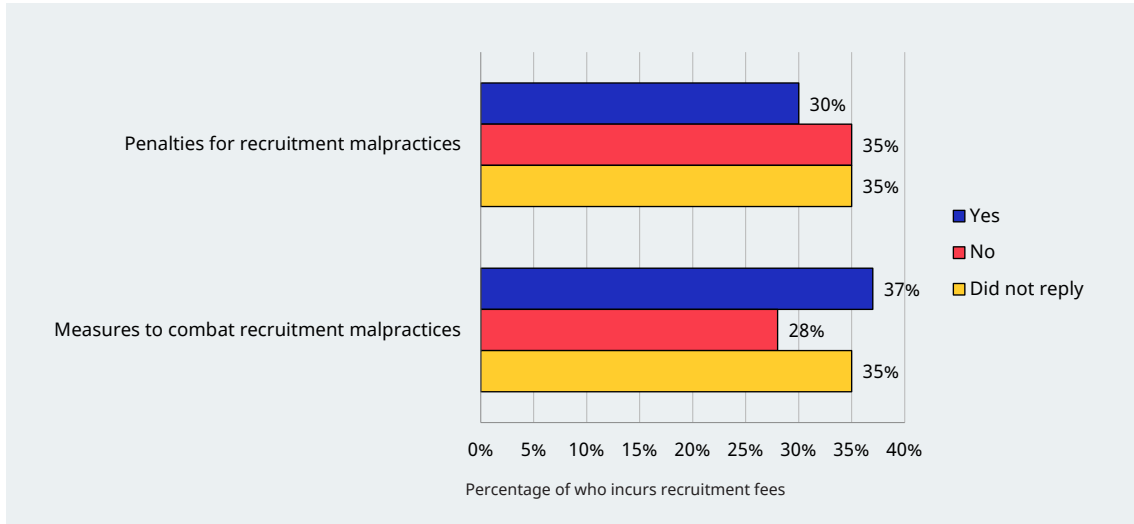
► **Figure 43: Who incurs recruitment fees**



► **Table 15: Who incurs recruitment fees per country**

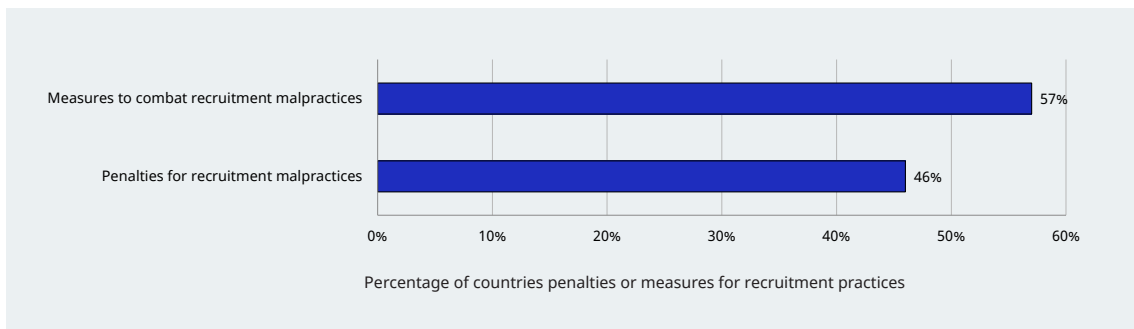
Country	Who incurs recruitment fees
Algeria	none of the above
Cameroon	employers
Democratic Republic of Congo	employers
Egypt	-
Ethiopia	none of the above
Côte d'Ivoire	migrant workers
Kenya	migrant workers
Morocco	migrant workers
Nigeria	employers
Somalia	migrant workers
South Africa	-
Sudan	migrant workers
Uganda	-
Zimbabwe	employers

► Figure 44: Penalties or measures against recruitment malpractices



► Figure 45: Penalties or measures against recruitment malpractices

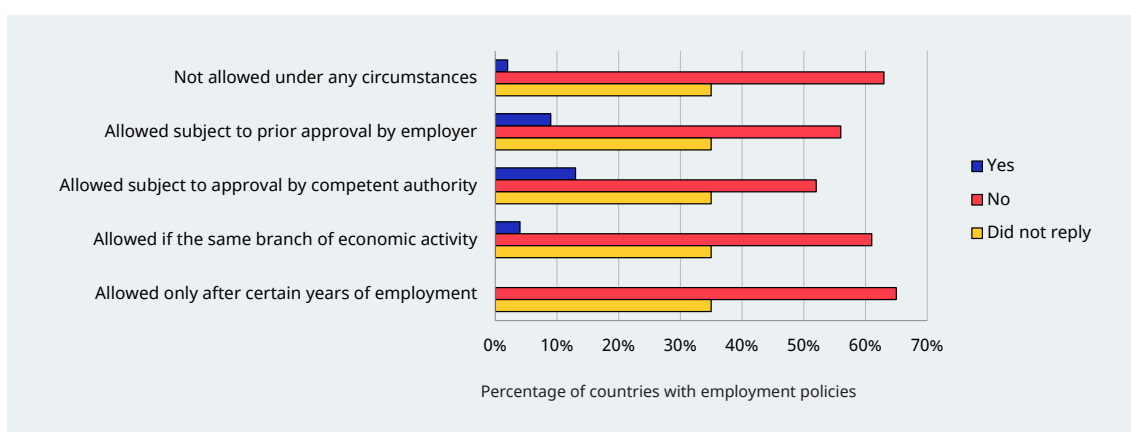
**Only captures respondents who selected yes*



► **Table 16: Measures or penalties against recruitment malpractices per country**

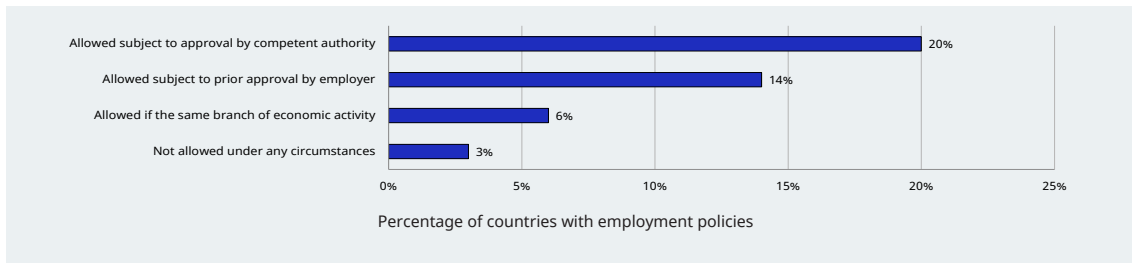
Country	Penalties for recruitment malpractices	Measures to combat recruitment malpractices
Algeria	yes	yes
Cameroon	no	no
Democratic Republic of Congo	yes	yes
Egypt	-	-
Ethiopia	no	no
Côte d'Ivoire	no	no
Kenya	no	no
Morocco	yes	no
Nigeria	yes	yes
Somalia	no	no
South Africa	-	-
Sudan	yes	yes
Uganda	-	-
Zimbabwe	yes	yes

► **Figure 46: Restrictions regarding occupational mobility of migrant workers**

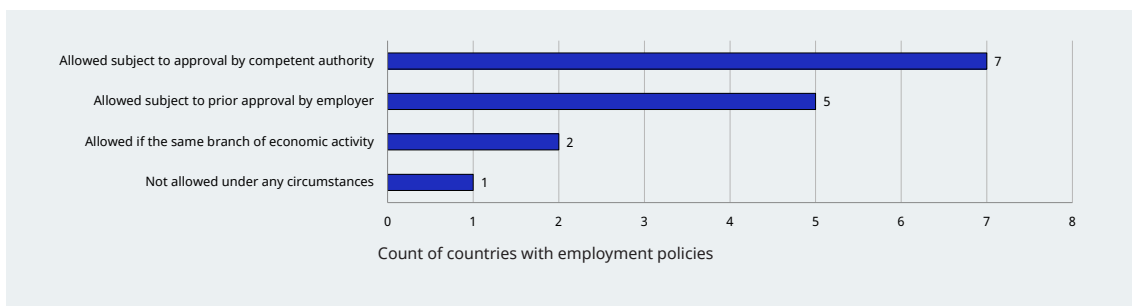


► **Figure 47: Restrictions regarding occupational mobility of migrant workers**

*Only captures respondents who selected yes

► **Figure 48: Restrictions regarding occupational mobility of migrant workers**

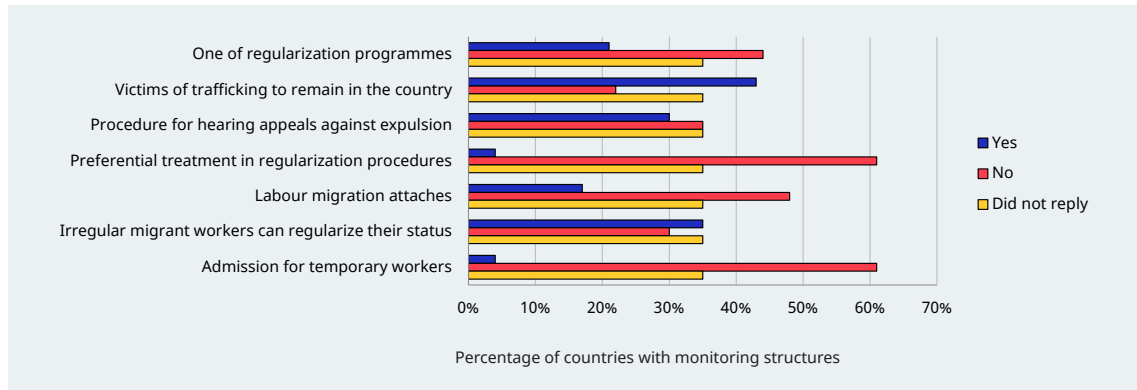
*Only captures respondents who selected yes

► **Table 17: Restriction regarding mobility of migrant workers per country**

Country	Not allowed under any circumstances	Allowed if approved by authority	Allowed if in the same economic activity	Allowed after certain years of employment	Allowed if approved by employer
Algeria	no	yes	no	no	no
Cameroon	no	no	no	no	no
Democratic Republic of Congo	no	no	no	no	no
Egypt	-	-	-	-	-
Ethiopia	no	no	no	no	no
Côte d'Ivoire	no	no	no	no	no
Kenya	no	no	no	no	no
Morocco	no	no	no	no	no
Nigeria	no	no	no	no	no
Somalia	no	no	no	no	no
South Africa	-	-	-	-	-
Sudan	no	yes	yes	no	yes
Uganda	-	-	-	-	-
Zimbabwe	no	no	no	no	no

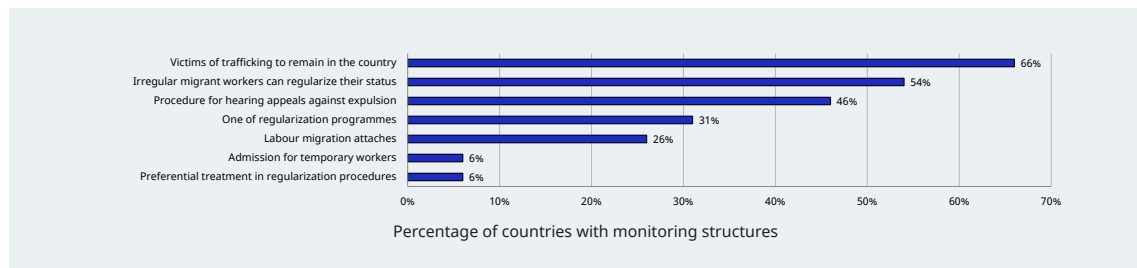
► **Figure 49: Monitoring Structures**

**Only captures respondents who selected yes*



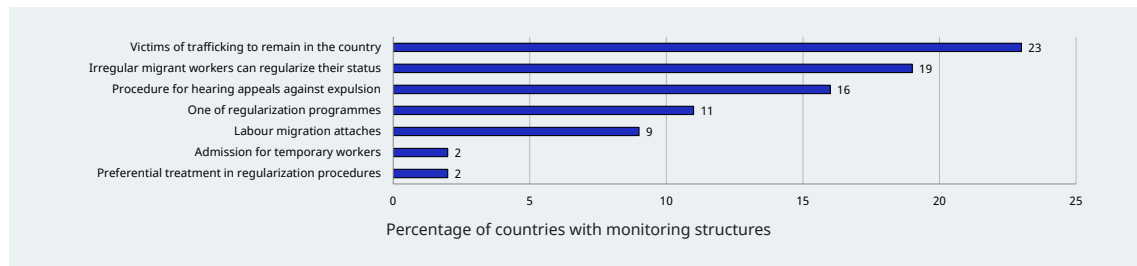
► **Figure 50: Monitoring Structures**

**Only captures respondents who selected yes*



► **Figure 51: Monitoring Structures**

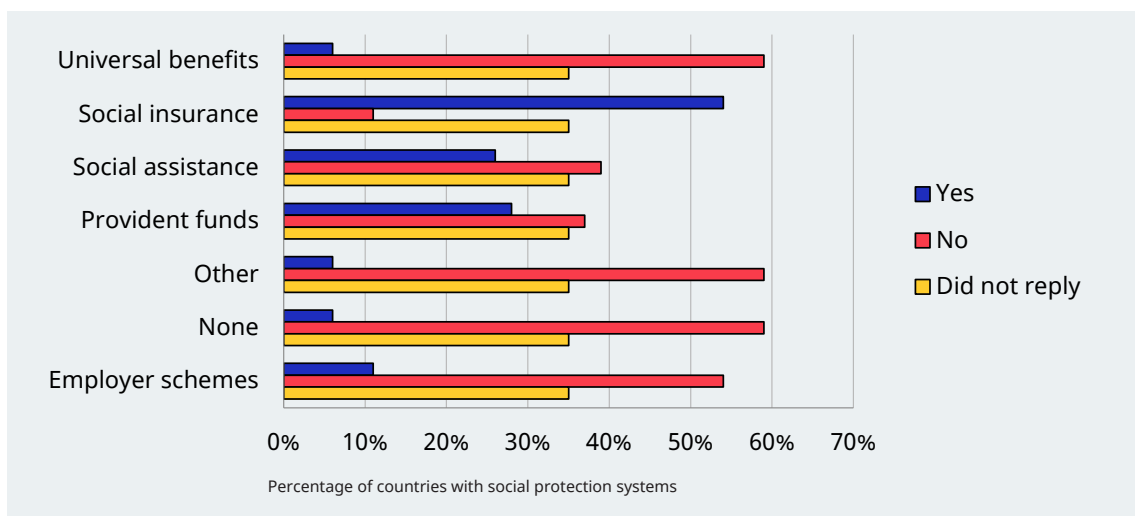
**Only captures respondents who selected yes*



► **Table 18: Monitoring structures per country**

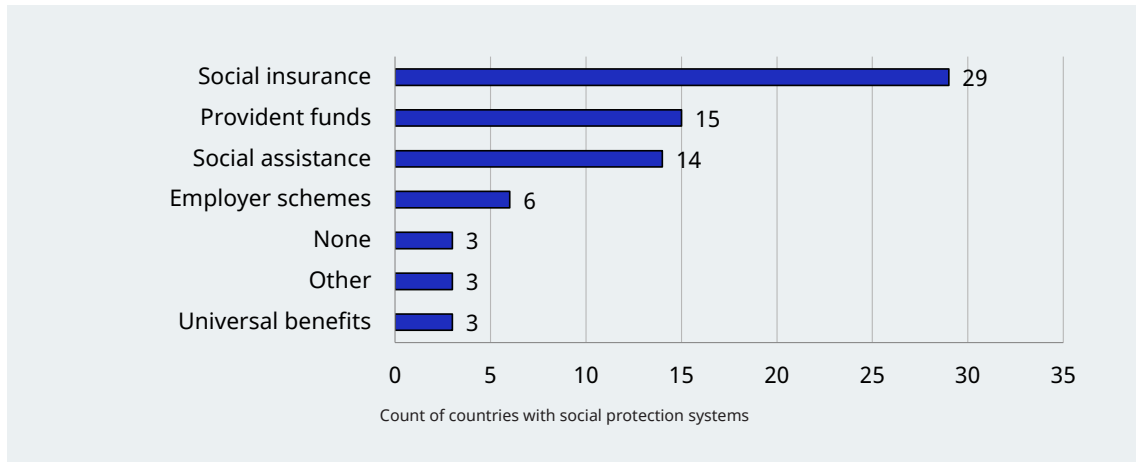
Country	Regularisation programmes	Irregular migrant workers can regularise their status	Preferential treatment in regularisation procedures	Admission for temporary workers	Procedure for hearing appeals against expulsion	Trafficking victims to remain in the country	Labour migration attaches
Algeria	no	no	no	no	yes	yes	no
Cameroon	no	yes	no	no	no	yes	no
Democratic Republic of Congo	no	yes	no	yes	no	no	no
Egypt	-	-	-	-	-	-	-
Ethiopia	yes	yes	no	no	yes	no	yes
Côte d'Ivoire	no	no	no	no	no	yes	no
Kenya	no	no	no	no	no	no	yes
Morocco	no	yes	no	no	no	yes	no
Nigeria	no	yes	no	no	no	yes	no
Somalia	no	no	no	no	no	no	yes
South Africa	-	-	-	-	-	-	-
Sudan	yes	yes	no	no	yes	yes	no
Uganda	-	-	-	-	-	-	-
Zimbabwe	no	yes	no	no	yes	no	no

Section VI Protection and access to services

► **Figure 52: Social protection systems**

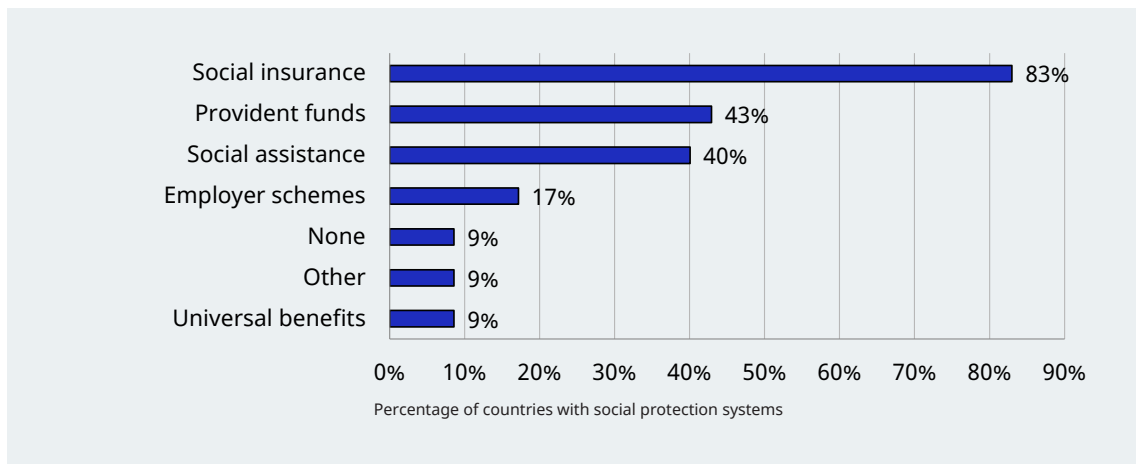
► **Figure 53: Social protection systems**

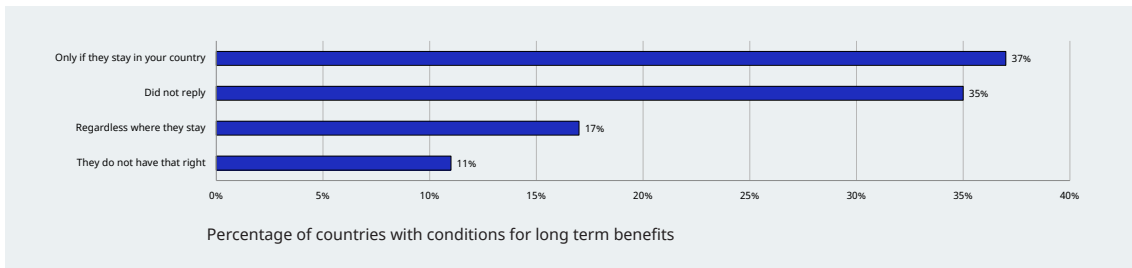
**Only captures respondents who selected yes*



► **Figure 54: Social protection systems**

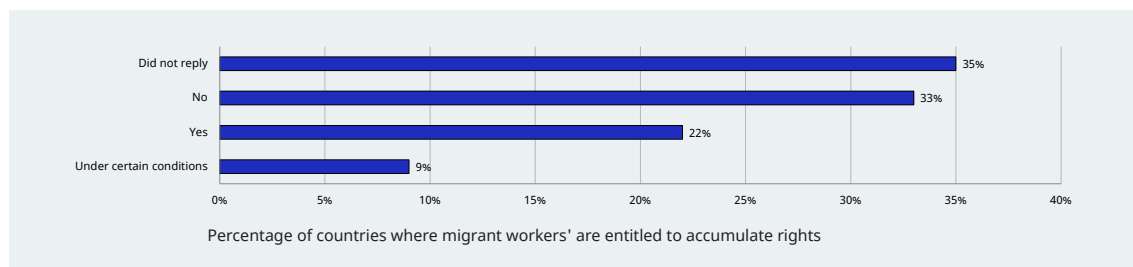
**Only captures respondents who selected yes*



► **Figure 56: Conditions for long term benefits for migrant workers**► **Table 21: Conditions for long term benefits to migrant workers**

Country	Conditions for acquired rights
Algeria	regardless of where they stay
Cameroon	only if they stay in your country
Democratic Republic of Congo	only if they stay in your country
Egypt	-
Ethiopia	regardless of where they stay
Côte d'Ivoire	only if they stay in your country
Kenya	regardless of where they stay
Morocco	only if they stay in your country
Nigeria	only if they stay in your country
Somalia	only if they stay in your country
South Africa	-
Sudan	they don't have that right
Uganda	-
Zimbabwe	regardless of where they stay

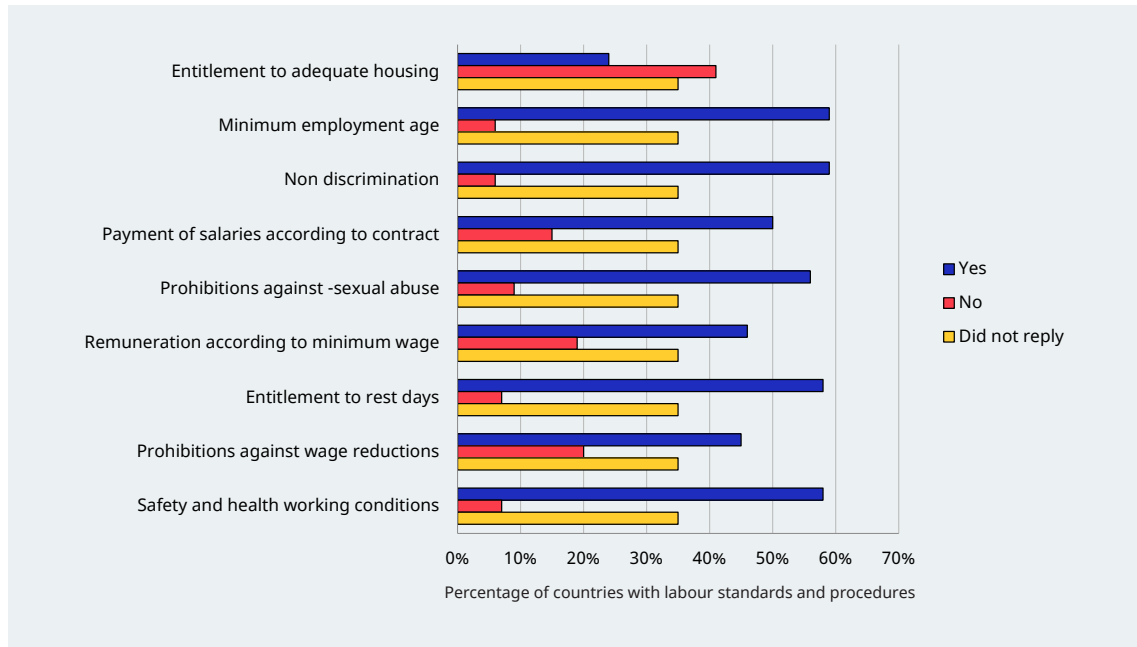
► **Figure 57: Migrant workers' entitlements to accumulate rights**



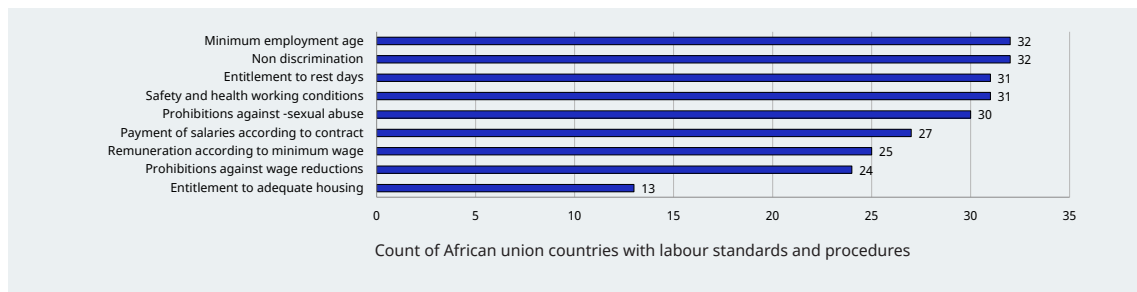
► **Table 22: Migrant workers' entitlement to accumulate rights**

Country	Accumulate rights over time
Algeria	yes
Cameroon	no
Democratic Republic of Congo	no
Egypt	-
Ethiopia	yes
Côte d'Ivoire	no
Kenya	yes
Morocco	no
Nigeria	yes
Somalia	no
South Africa	-
Sudan	yes
Uganda	-
Zimbabwe	no

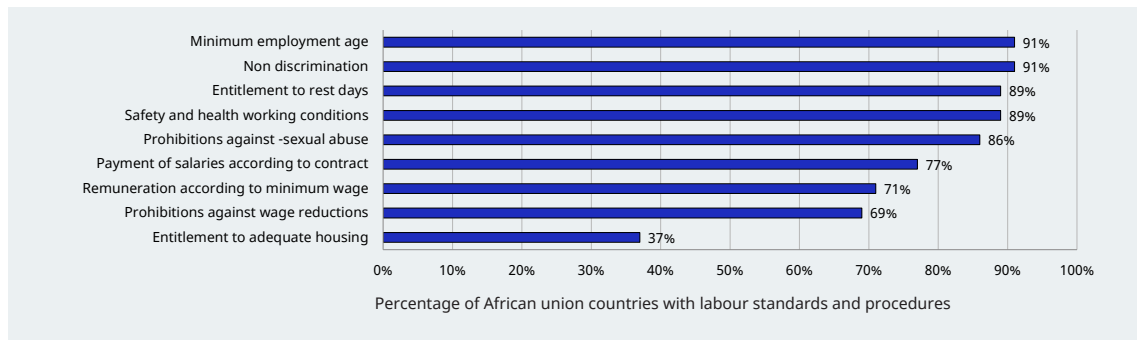
► Figure 58: Labour standards and procedures



► Figure 59: Labour standards and procedures among African union countries



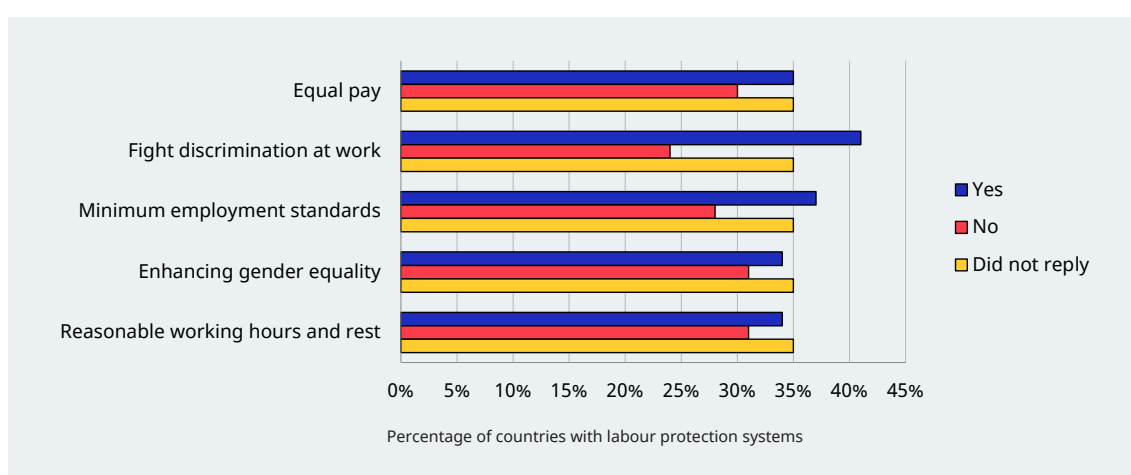
► Figure 60: Labour standards and procedures among African union countries



► Table 23: Labour standards and procedures among focus countries

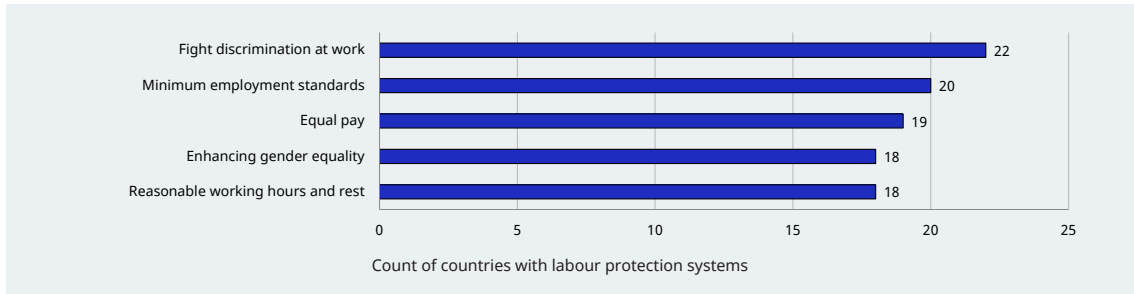
Country	Non discrimination	Minimum age for employment	Prohibitions against abuse	Remuneration	Payment of salaries	Prohibitions against wage reductions	Rest periods	Housing	Working conditions
Algeria	yes	yes	yes	yes	yes	yes	yes	yes	yes
Cameroon	yes	yes	no	yes	yes	yes	yes	no	yes
Democratic Republic of Congo	yes	yes	yes	yes	no	no	yes	yes	yes
Egypt	-	-	-	-	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	yes	no	no	no	yes
Côte d'Ivoire	no	no	no	no	no	no	no	no	no
Kenya	yes	yes	no	yes	no	no	yes	no	yes
Morocco	yes	yes	yes	yes	no	no	yes	no	no
Nigeria	yes	yes	yes	yes	yes	no	no	no	no
Somalia	yes	no	yes	no	yes	yes	yes	no	yes
South Africa	-	-	-	-	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes	yes	yes	no	yes
Uganda	-	-	-	-	-	-	-	-	-
Zimbabwe	yes	yes	yes	no	no	yes	yes	yes	yes

► Figure 61: Labour protection systems



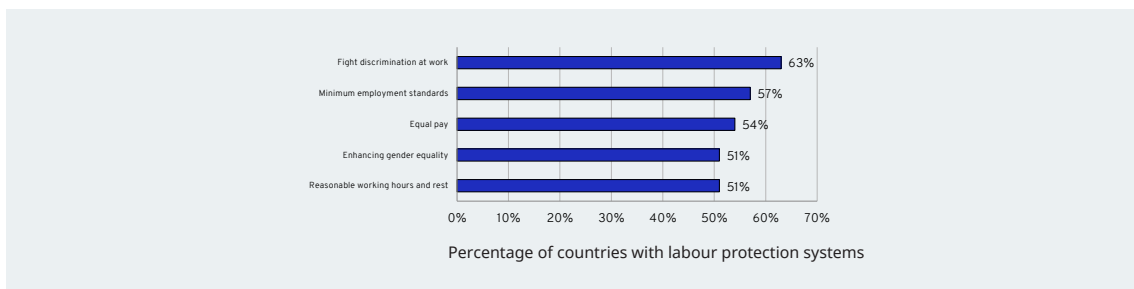
► **Figure 62: Labour protection systems**

*Only captures respondents who selected yes

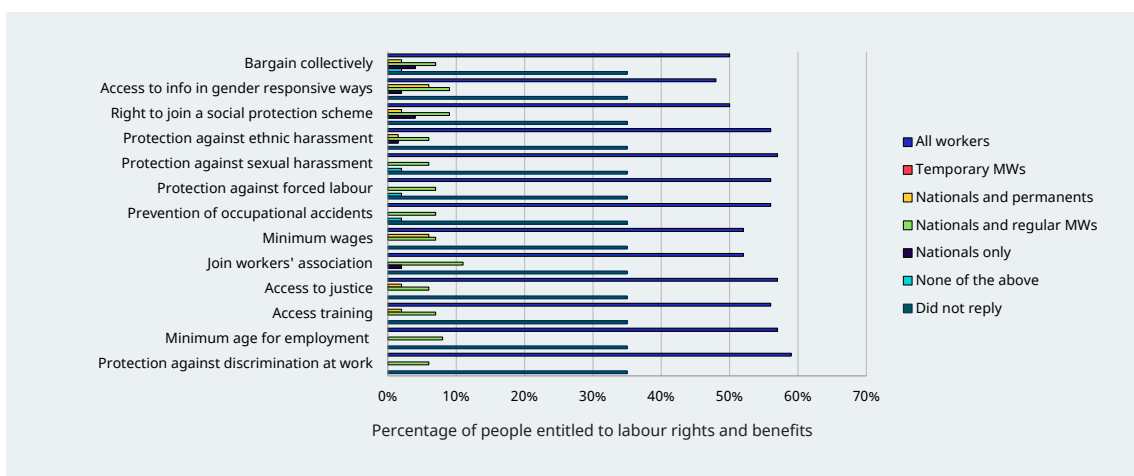


► **Figure 63: Labour protection systems**

*Only captures respondents who selected yes



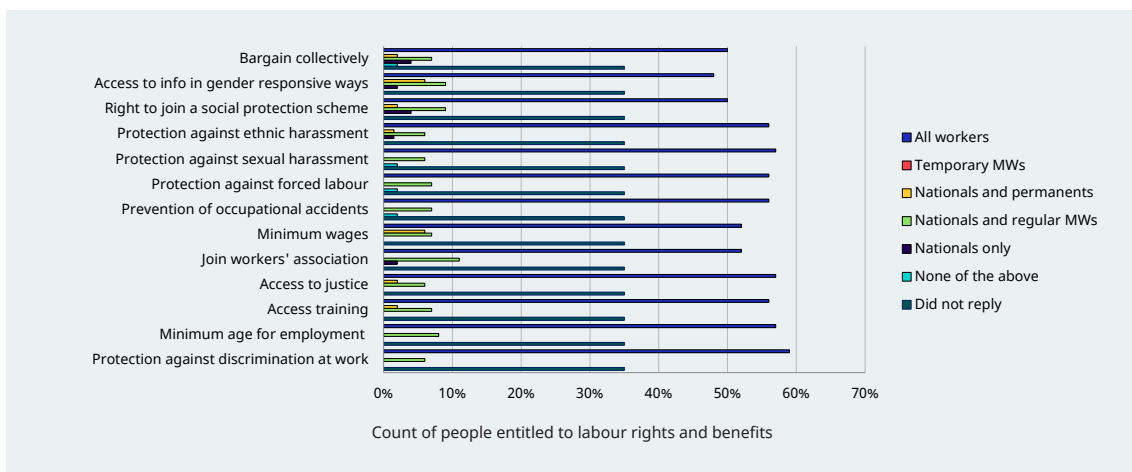
► **Figure 64: Who is entitled to labour protections**



► Table 24: Labour protection systems per country

Country	Employment Standards	Equal pay	Fight discrimination	Working hours	Gender equality
Algeria	yes	yes	yes	no	no
Cameroon	no	no	no	no	no
Democratic Republic of Congo	no	no	no	no	yes
Egypt	-	-	-	-	-
Ethiopia	no	no	no	yes	yes
Côte d'Ivoire	no	no	no	no	yes
Kenya	no	no	yes	yes	no
Morocco	yes	yes	yes	no	no
Nigeria	yes	yes	yes	yes	yes
Somalia	yes	yes	yes	no	no
South Africa	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes
Uganda	-	-	-	-	-
Zimbabwe	yes	yes	yes	yes	yes

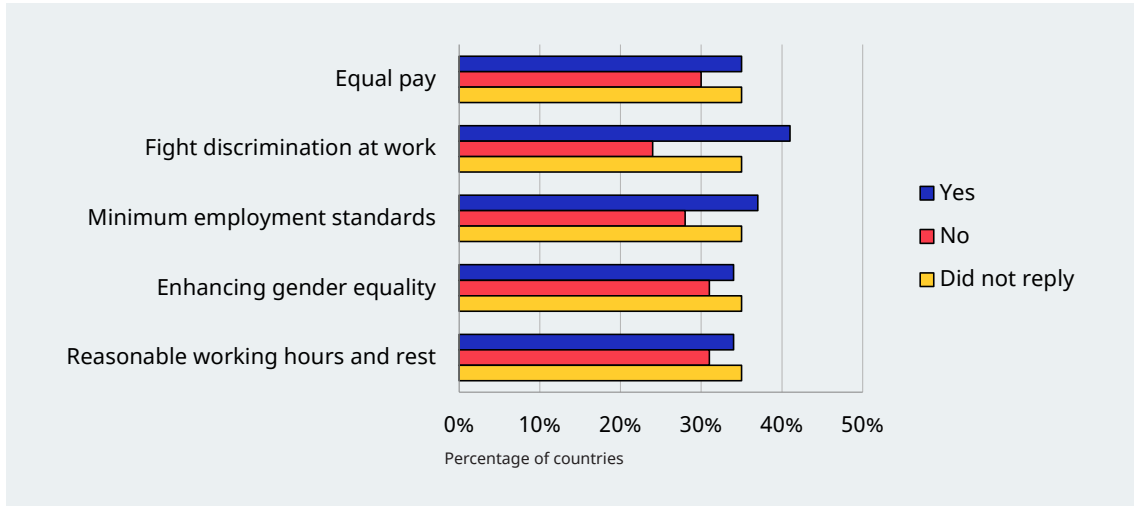
► Figure 65: Who is entitled to labour protections



► Table 25: Who is entitled to labour protection rights per country

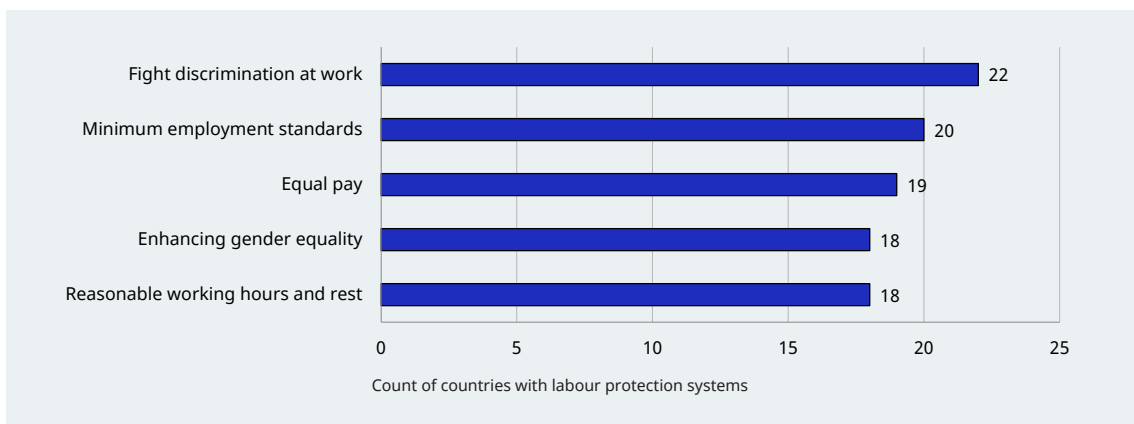
Country	Access to justice	Form workers' organisations	Bargain	Protection against forced labour	Protection against discrimination at work	Minimum employment age	Minimum wages	Social protection scheme	Protection against sexual harassment	Protection against ethnic harassment	Access to training	Accessible information	Prevention of occupational accidents
Algeria	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs
Cameroon	nationals and regular MWs	all workers	all workers	none of the above	all workers	all workers	all workers	all workers	none of the above	none of the above	all workers	none of the above	all workers
Democratic Republic of Congo	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Egypt	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Côte d'Ivoire	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Kenya	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Morocco	all workers	nationals only	nationals only	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Nigeria	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers
Somalia	all workers	all workers	all workers	all workers	all workers	all workers	all workers	nationals only	all workers	all workers	all workers	all workers	all workers
South Africa	-	-	-	-	-	-	-	-	-	-	-	-	-
Sudan	all workers	nationals and regular MWs	none of the above	all workers	all workers	all workers	all workers	all workers	all workers	all workers	all workers	nationals and regular MWs	all workers
Uganda	-	-	-	-	-	-	-	-	-	-	-	-	-
Zimbabwe	all workers	nationals and regular MWs	all workers	all workers	all workers	all workers	all workers	nationals and regular MWs	all workers	all workers	nationals and regular MWs	all workers	all workers

► **Figure 66: Provisions for migrant workers who lose their jobs**



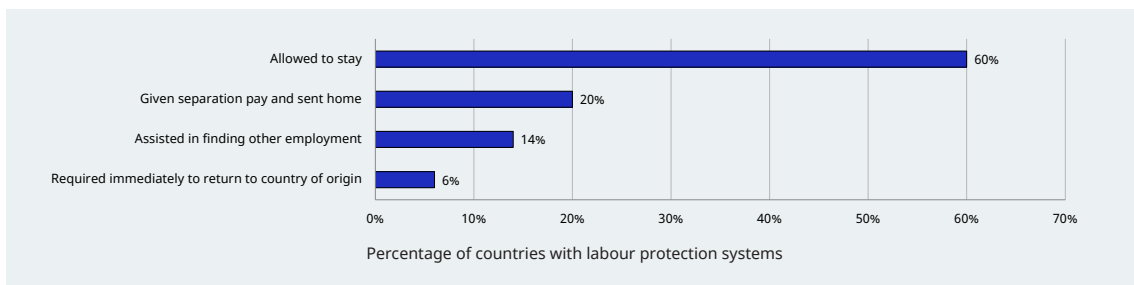
► **Figure 67: Provisions for migrant workers who lose their jobs**

**Only captures respondents who selected yes*



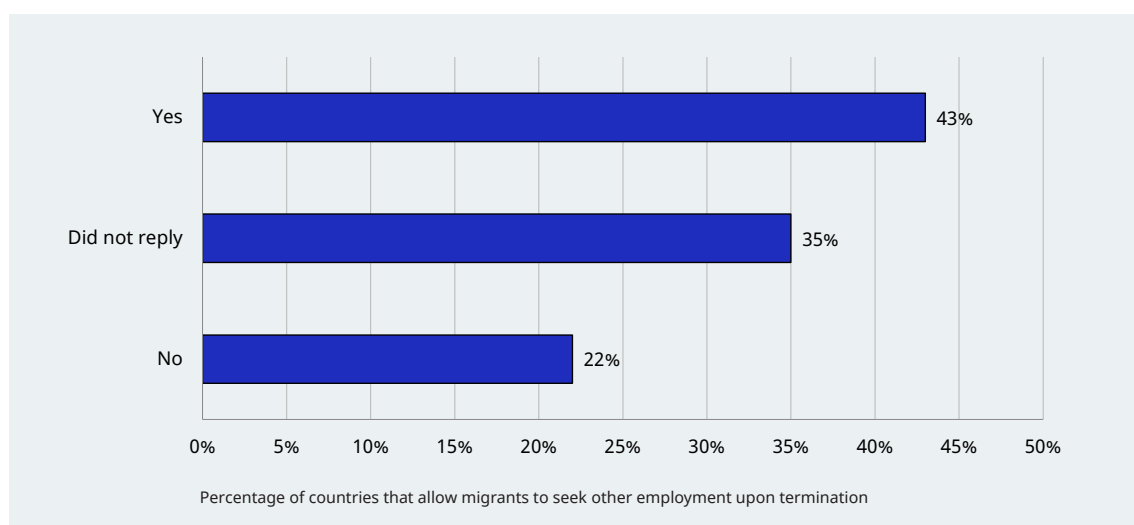
► **Figure 68: Provisions for migrant workers who lose their jobs**

**Only captures respondents who selected yes*

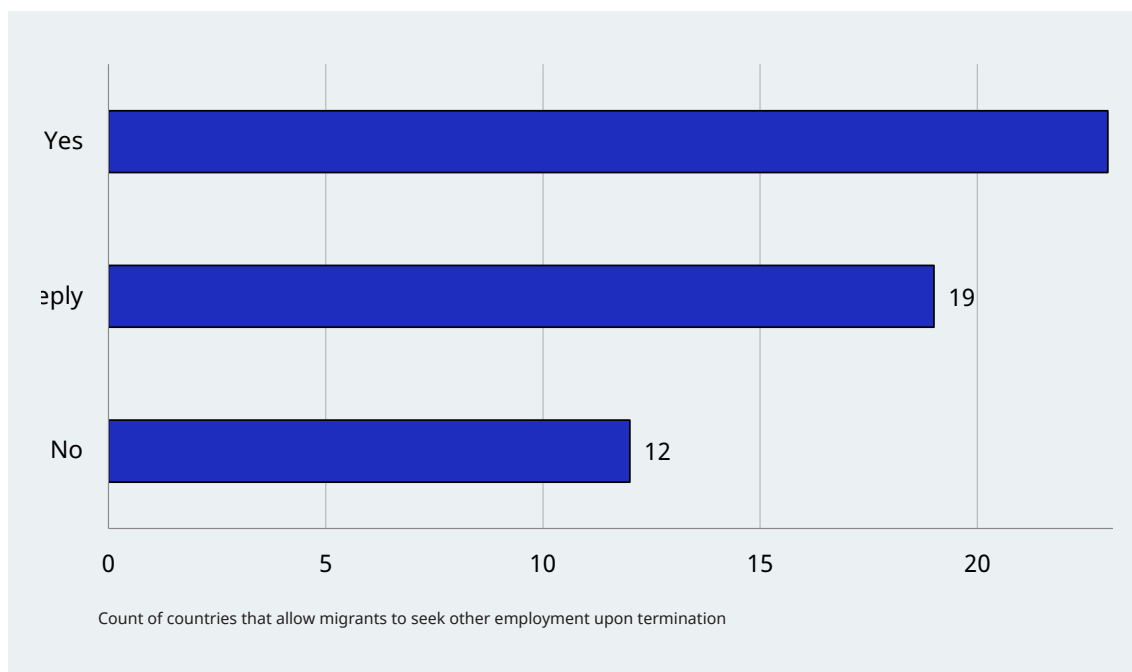


► **Table 26: Provisions for migrant workers who lose their jobs**

Country	Allowed to stay	Assisted in finding other employment	Return to country of origin	Separation pay and sent home
Algeria	no	no	yes	yes
Cameroon	yes	no	no	no
Democratic Republic of Congo	yes	no	no	no
Egypt	did not reply	did not reply	did not reply	did not reply
Ethiopia	yes	no	no	no
Côte d'Ivoire	yes	yes	no	no
Kenya	no	no	no	no
Morocco	yes	no	no	no
Nigeria	yes	no	no	no
Somalia	no	no	no	no
South Africa	did not reply	did not reply	did not reply	did not reply
Sudan	yes	no	no	no
Uganda	did not reply	did not reply	did not reply	did not reply
Zimbabwe	no	no	no	yes

► **Figure 69: Permission to temporary workers to remain in host country to seek other employment**

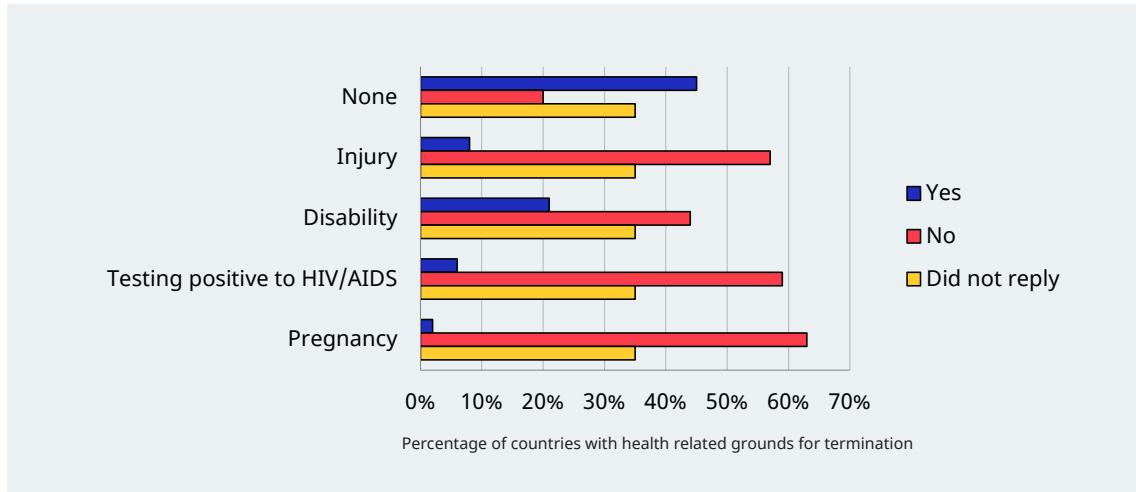
► **Figure 70: Permission to temporary workers to remain in host country to seek other employment**



► **Table 27: Permission to temporary workers to remain in host country to seek other employment**

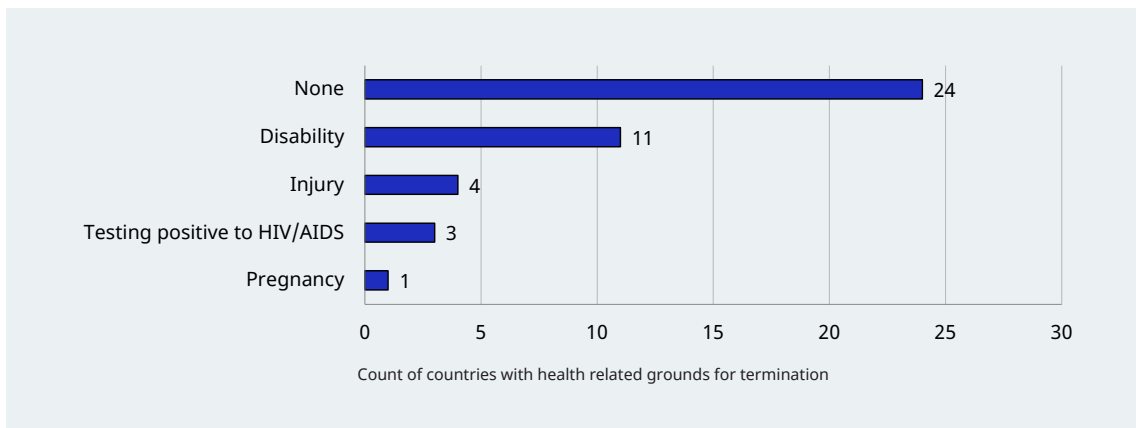
Country	Allowed to remain in the country to seek other employment
Algeria	no
Cameroon	yes
Democratic Republic of Congo	yes
Egypt	-
Ethiopia	no
Côte d'Ivoire	yes
Kenya	yes
Morocco	yes
Nigeria	yes
Somalia	yes
South Africa	-
Sudan	yes
Uganda	-
Zimbabwe	no

► Figure 71: Valid grounds for termination of employment



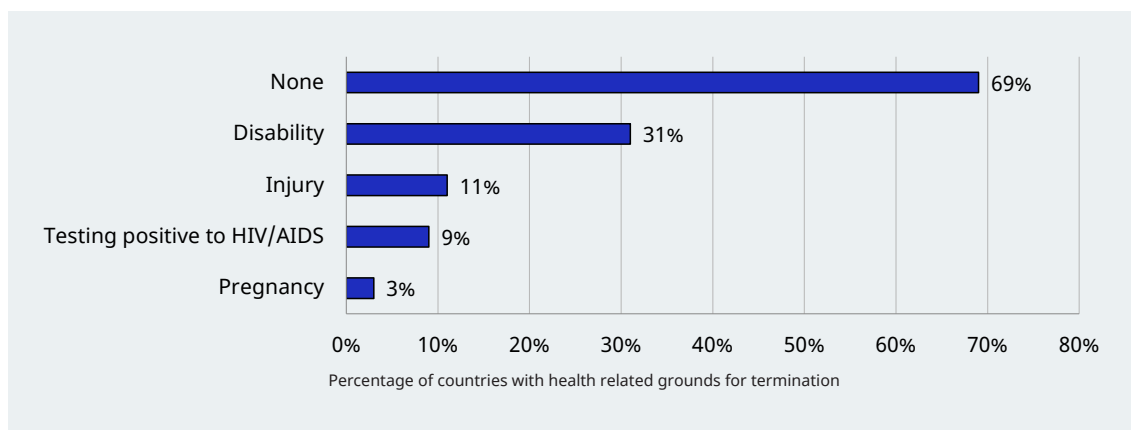
► Figure 72: Valid ground for termination of employment

**Only captures respondents who selected yes*



► **Figure 73: Valid ground for termination of employment**

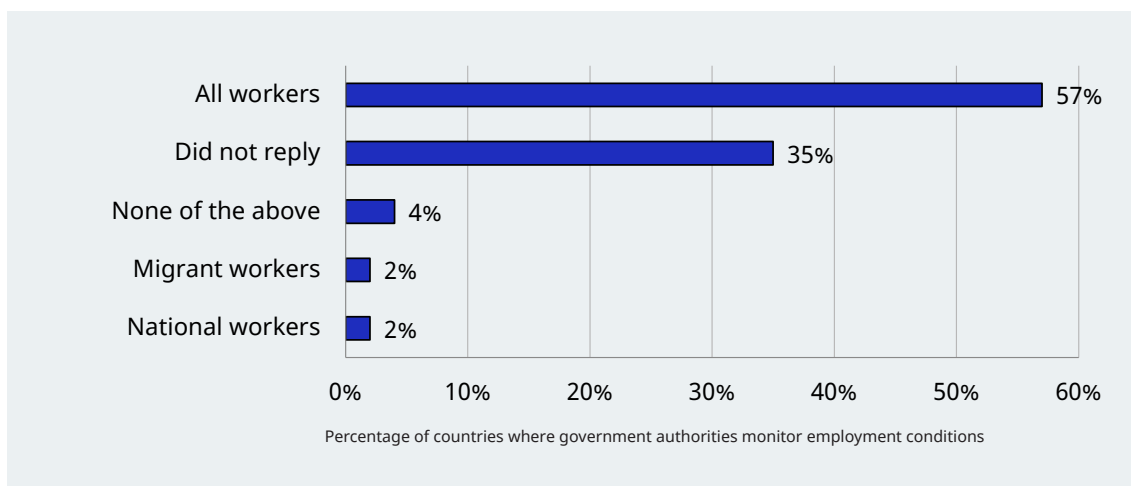
*Only captures respondents who selected yes



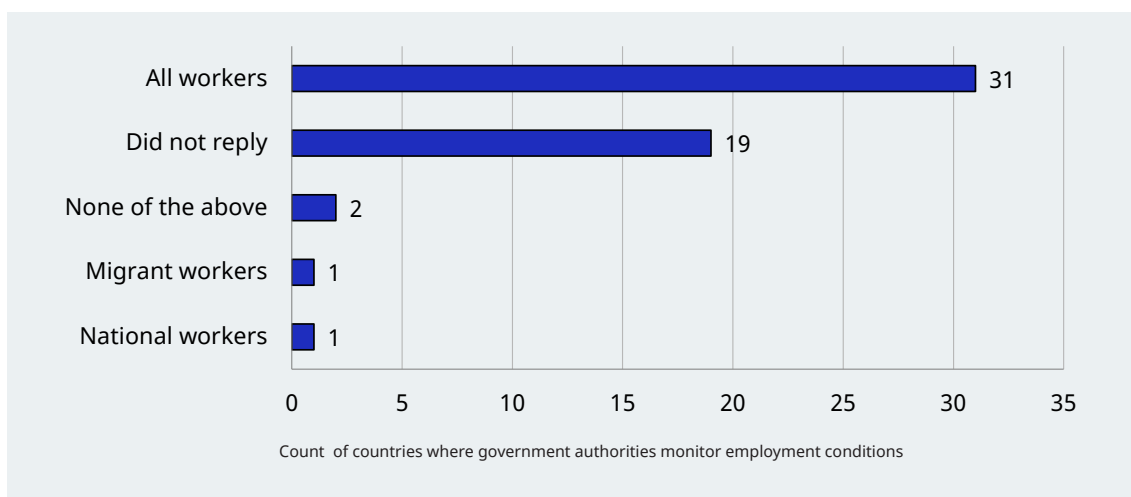
► **Table 28: Valid grounds for termination of employment**

Country	Injury	HIV/AIDS	Disability	Pregnancy	None
Algeria	no	no	no	no	yes
Cameroon	no	no	no	no	yes
Democratic Republic of Congo	no	no	yes	no	no
Egypt	-	-	-	-	-
Ethiopia	no	no	no	no	yes
Côte d'Ivoire	no	no	no	no	yes
Kenya	no	no	no	no	yes
Morocco	yes	yes	yes	no	no
Nigeria	no	no	no	no	yes
Somalia	yes	yes	yes	yes	no
South Africa	-	-	-	-	-
Sudan	yes	yes	yes	no	no
Uganda	-	-	-	-	-
Zimbabwe	no	no	no	no	yes

► **Figure 74: Employment monitoring of different workers' categories by government authorities**



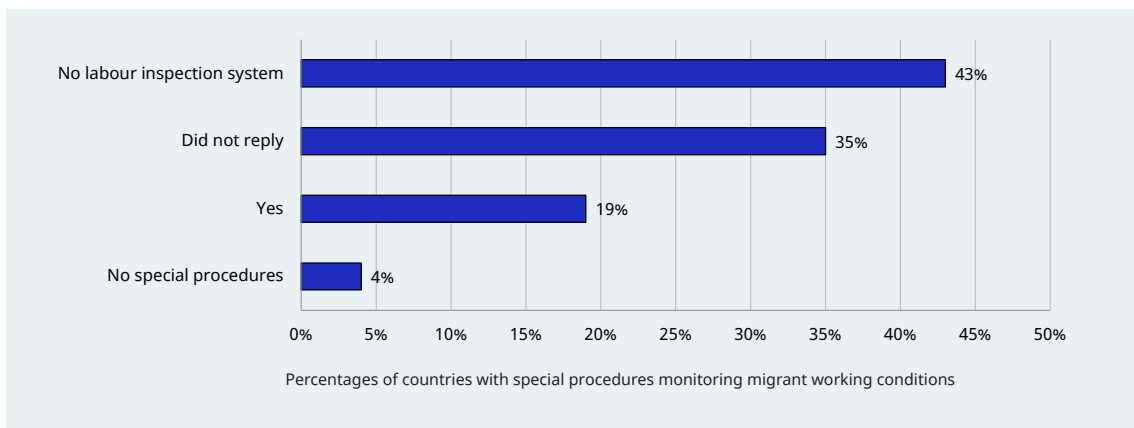
► **Figure 75: Employment monitoring of different workers' categories by government authorities**



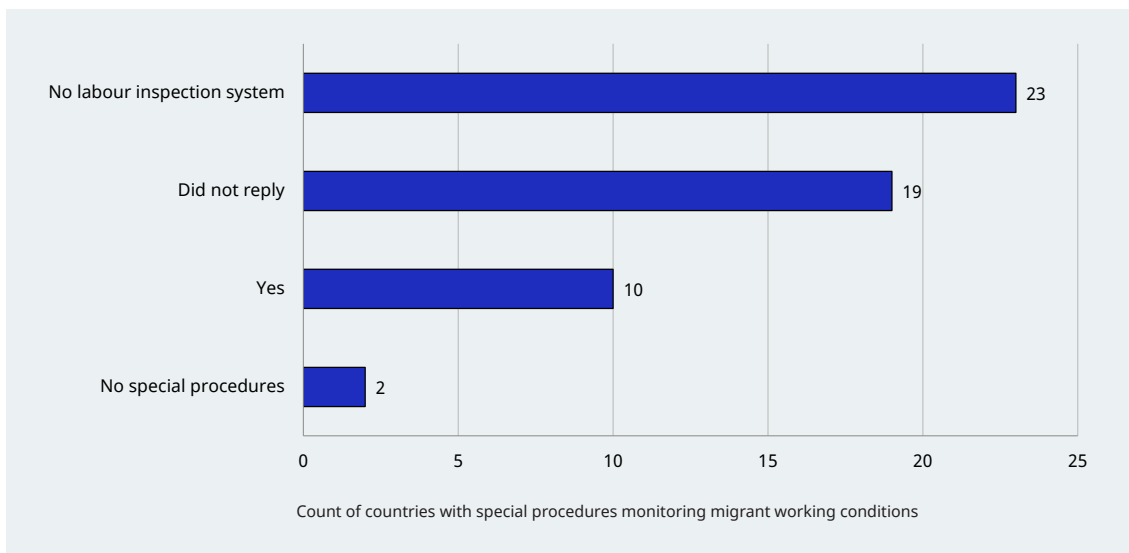
► **Table 29: Employment monitoring of different workers' categories by government authorities**

Country	Monitor employment conditions
Algeria	all workers
Cameroon	none of the above
Democratic Republic of Congo	all workers
Egypt	-
Ethiopia	all workers
Côte d'Ivoire	all workers
Kenya	none of the above
Morocco	all workers
Nigeria	all workers
Somalia	all workers
South Africa	-
Sudan	all workers
Uganda	-
Zimbabwe	all workers

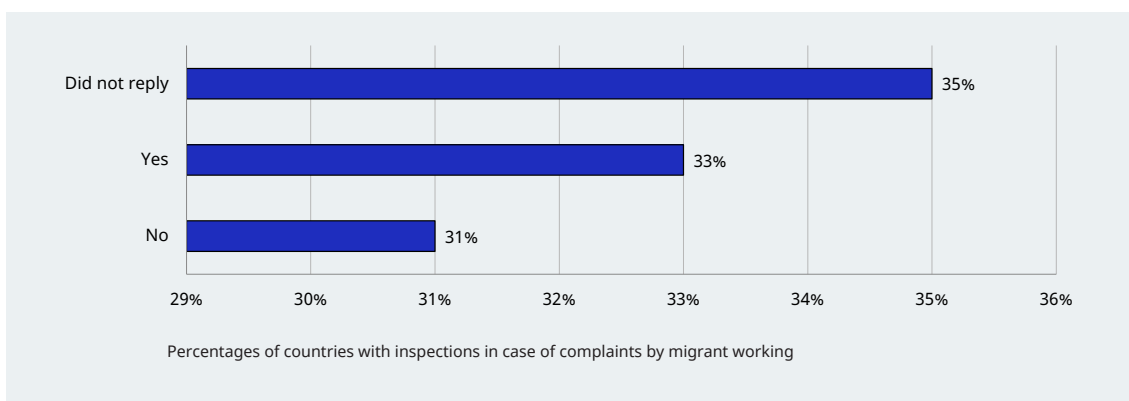
► **Figure 76: Provision of a regular inspection system with monitoring procedures for migrant working conditions**



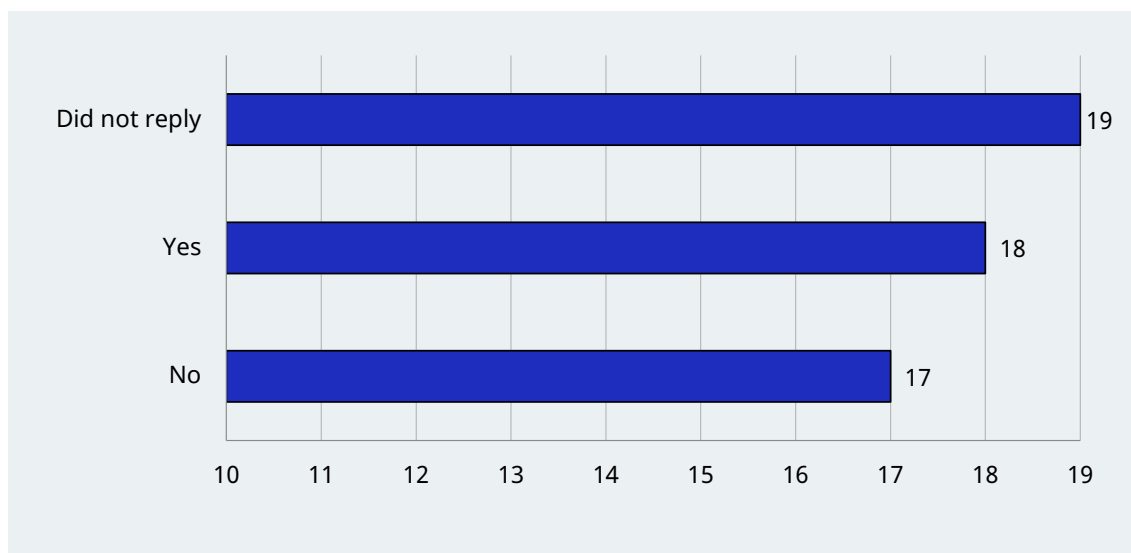
► **Figure 77: Provision of a regular labour inspection system with monitoring procedures for migrant working conditions**



► **Figure 78: Special procedures conducted in case of complaints by migrant workers**



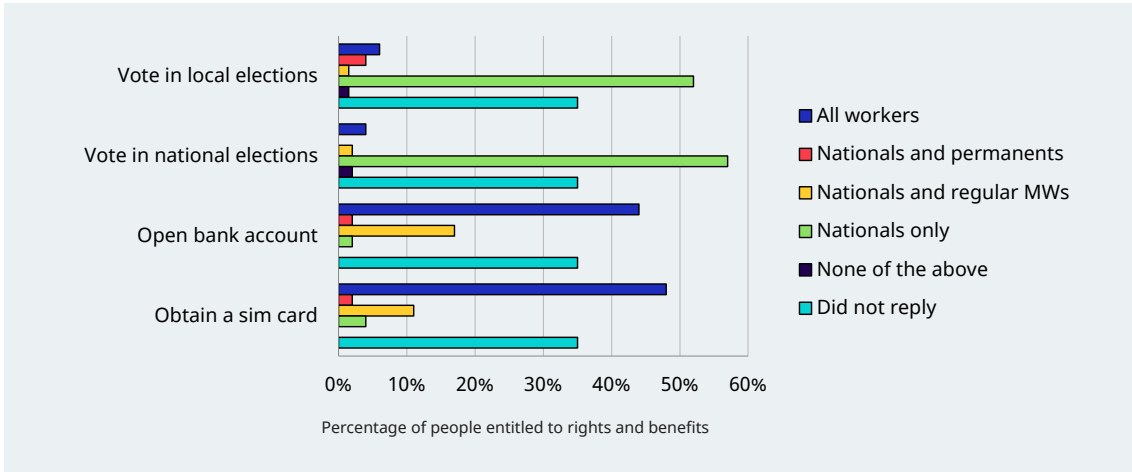
► **Figure 79: Special procedures conducted in case of complaints by migrant workers**



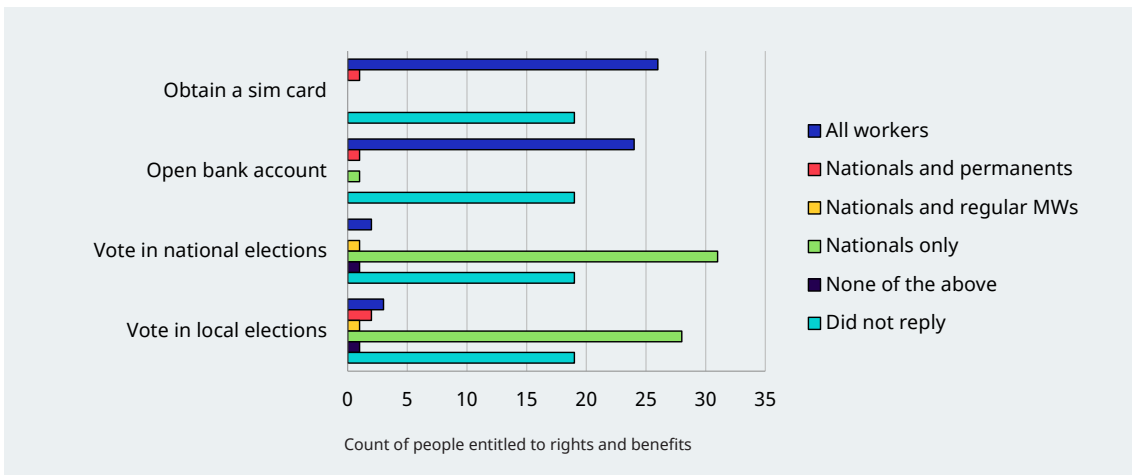
► **Table 30: Monitoring procedures for migrant workers per country**

Country	Monitoring working conditions in a labour inspection system	Inspections conducted in case of complaints
Algeria	yes	yes
Cameroon	yes	no
Democratic Republic of Congo	no labour inspection system	no
Egypt	-	-
Ethiopia	no labour inspection system	no
Côte d'Ivoire	no labour inspection system	yes
Kenya	no special procedures	no
Morocco	no labour inspection system	no
Nigeria	yes	yes
Somalia	no special procedures	no
South Africa	-	-
Sudan	yes	yes
Uganda	-	-
Zimbabwe	yes	yes

► **Figure 80: Entitlement to rights and benefits per worker category**



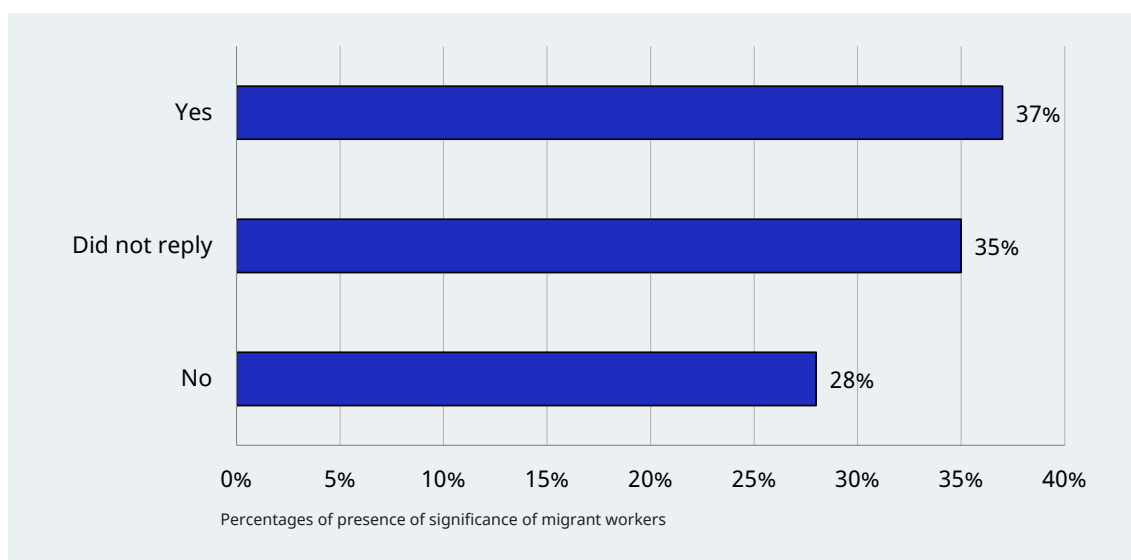
► **Figure 81: Entitlement to rights and benefits per worker category**



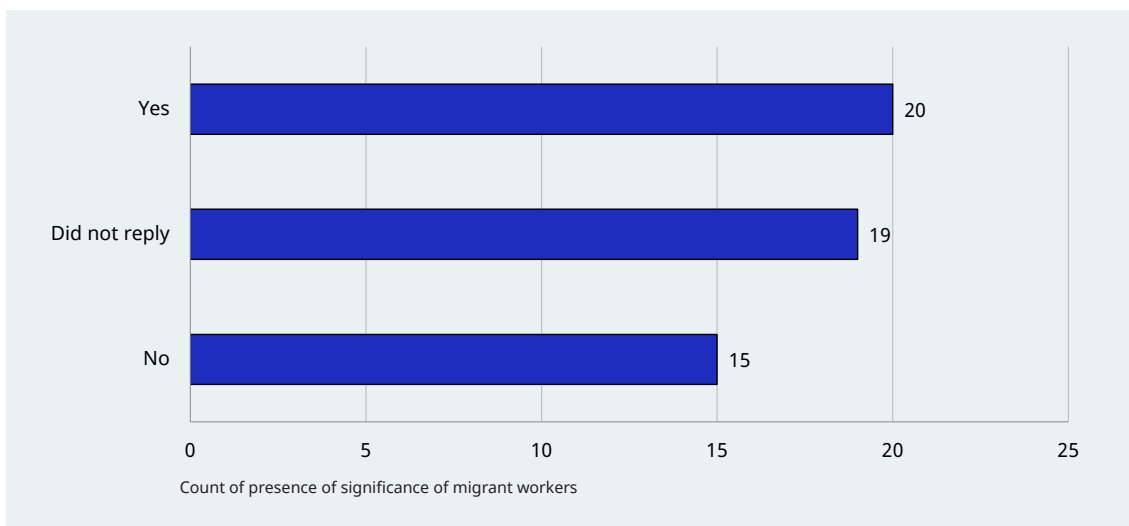
► **Table 31: Entitlement to rights and benefits per worker category, per country**

Country	Vote in local elections	Vote in national elections	Obtain sim cards	Open bank account
Algeria	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs	nationals and regular MWs
Cameroon	nationals only	nationals only	all workers	all workers
Democratic Republic of Congo	nationals only	nationals only	all workers	all workers
Egypt	-	-	-	-
Ethiopia	all workers	all workers	all workers	all workers
Côte d'Ivoire	nationals only	nationals only	all workers	all workers
Kenya	nationals only	nationals only	all workers	all workers
Morocco	nationals only	nationals only	all workers	nationals and regular MWs
Nigeria	nationals only	nationals only	all workers	all workers
Somalia	nationals only	nationals only	all workers	all workers
South Africa	-	-	-	-
Sudan	nationals only	nationals only	all workers	all workers
Uganda	-	-	-	-
Zimbabwe	nationals only	nationals only	nationals only	nationals and regular MWs

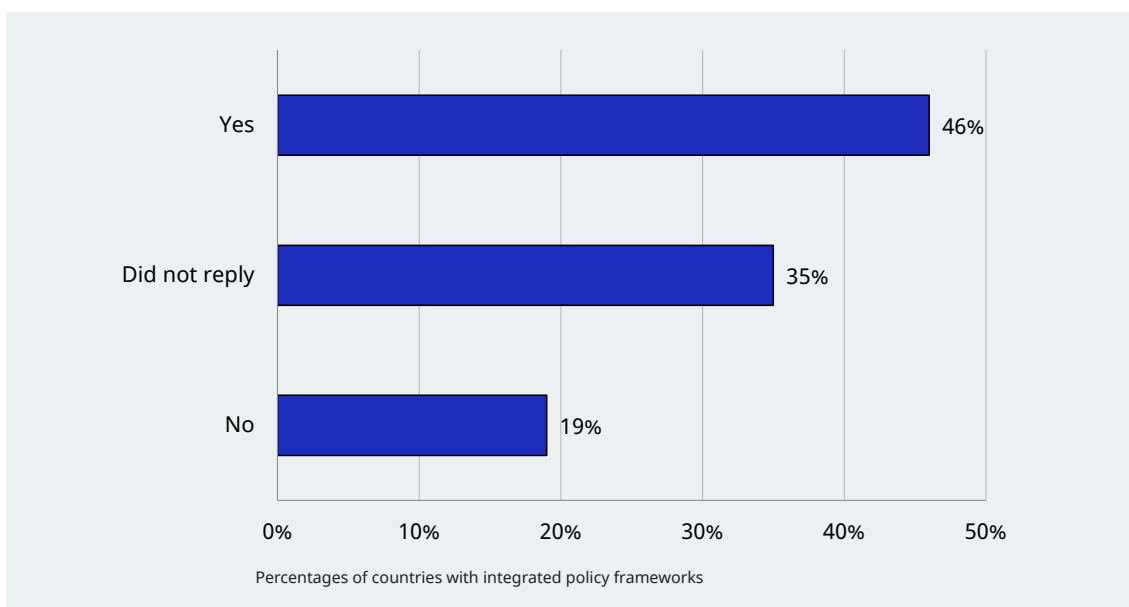
► **Figure 82: Significance of migrant workers' presence in the informal economy**



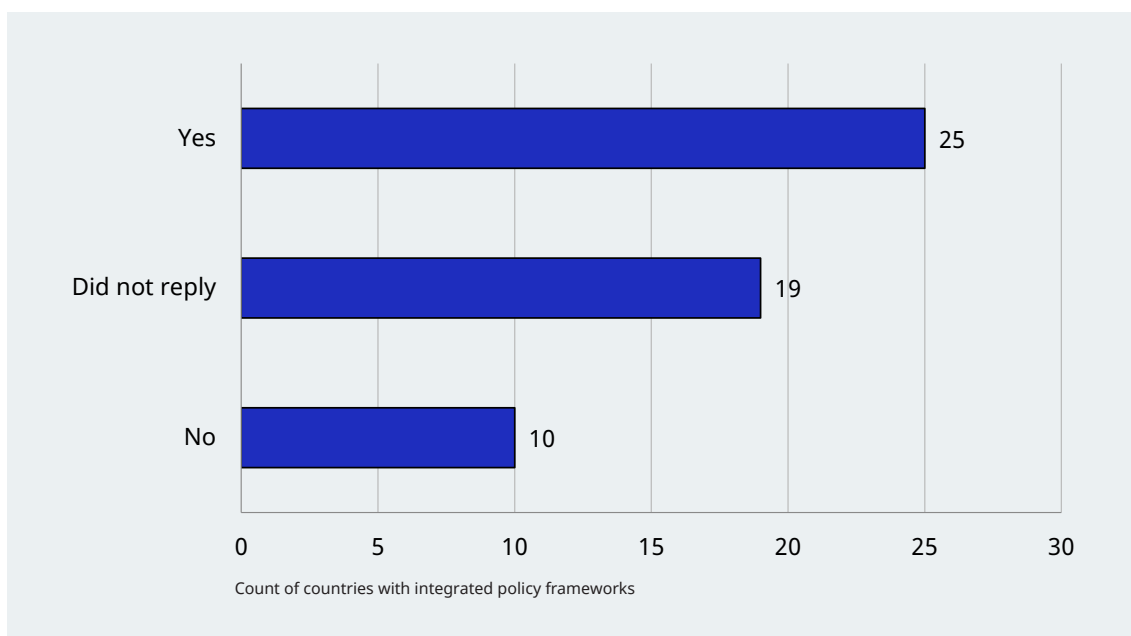
► **Figure 83: Significance of migrant workers' presence in the informal economy**



► **Figure 84: Existence of an integrated policy framework in a country's development plan to facilitate the transition to the formal economy**



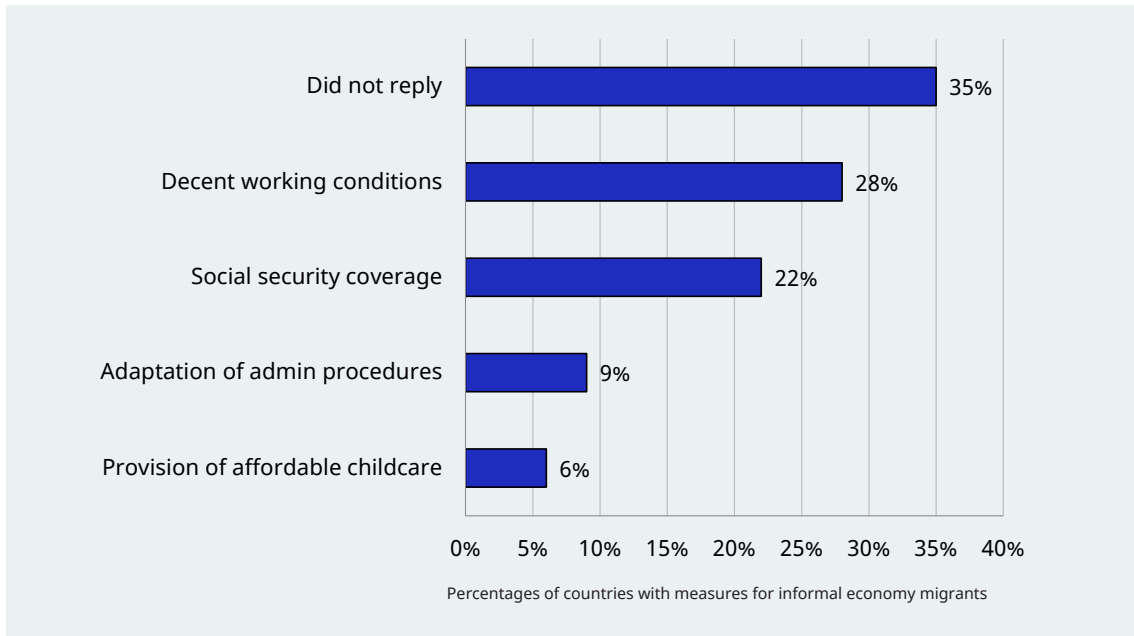
► **Figure 85: Existence of an integrated policy framework in a country's development plan to facilitate the transition to the formal economy**



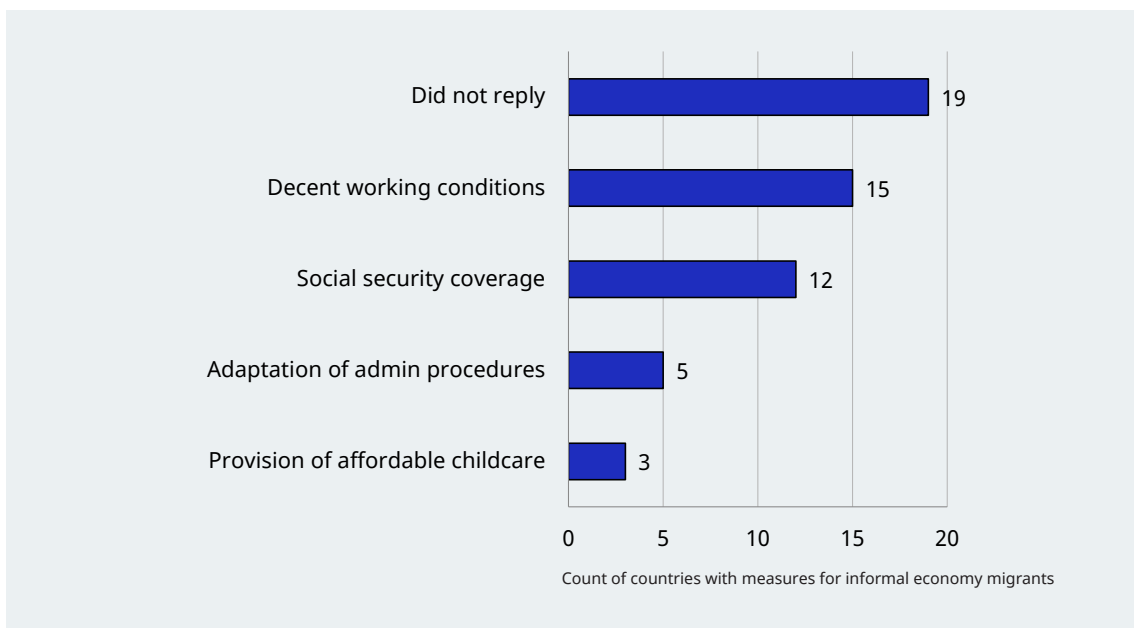
► **Table 32: Significance of migrant workers in the informal economy and presence of an integrated policy framework per country**

Country	Significance of migrant workers in informal economy	Integrated policy framework in the economy
Algeria	no	yes
Cameroon	yes	yes
Democratic Republic of Congo	yes	yes
Egypt	-	-
Ethiopia	no	yes
Côte d'Ivoire	yes	yes
Kenya	yes	no
Morocco	yes	no
Nigeria	yes	yes
Somalia	no	no
South Africa	-	-
Sudan	yes	yes
Uganda	-	-
Zimbabwe	no	no

►Figure 86: Intended measures for the extension of legal protection to migrants



►Figure 87: Intended measures for the extension of legal protection to migrants

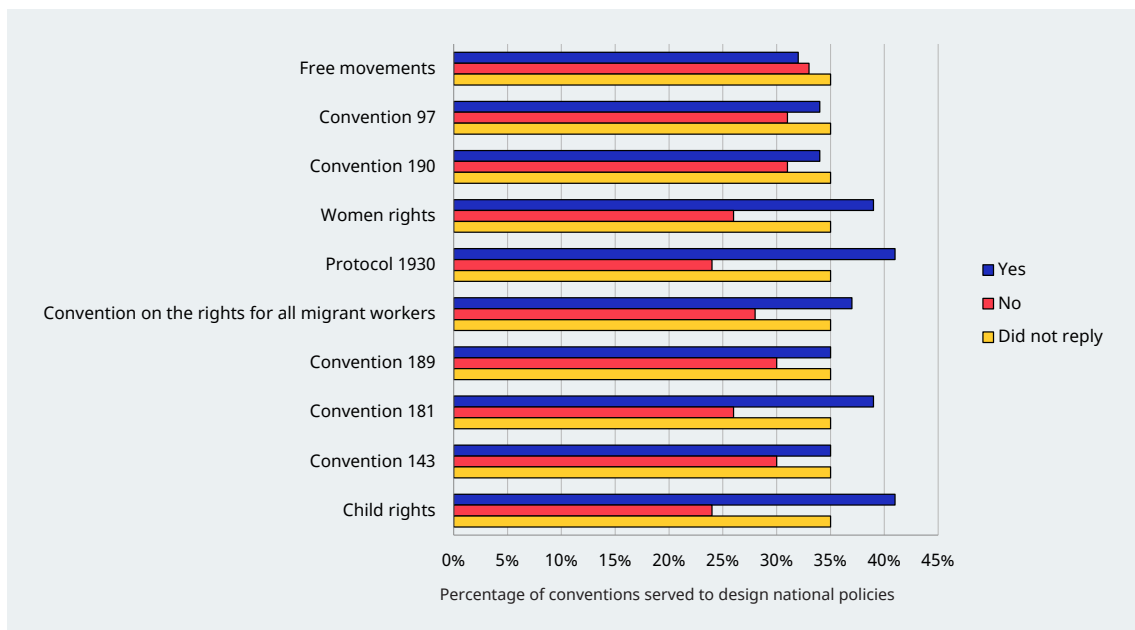


► **Table 33: Social protection to migrant workers**

Country	Migrant social protection
Algeria	decent working conditions
Cameroon	social security coverage
Democratic Republic of Congo	adaptation of admin procedures
Egypt	-
Ethiopia	social security coverage
Côte d'Ivoire	social security coverage
Kenya	social security coverage
Morocco	provision of affordable childcare
Nigeria	social security coverage
Somalia	decent working conditions
South Africa	-
Sudan	decent working conditions
Uganda	-
Zimbabwe	decent working conditions

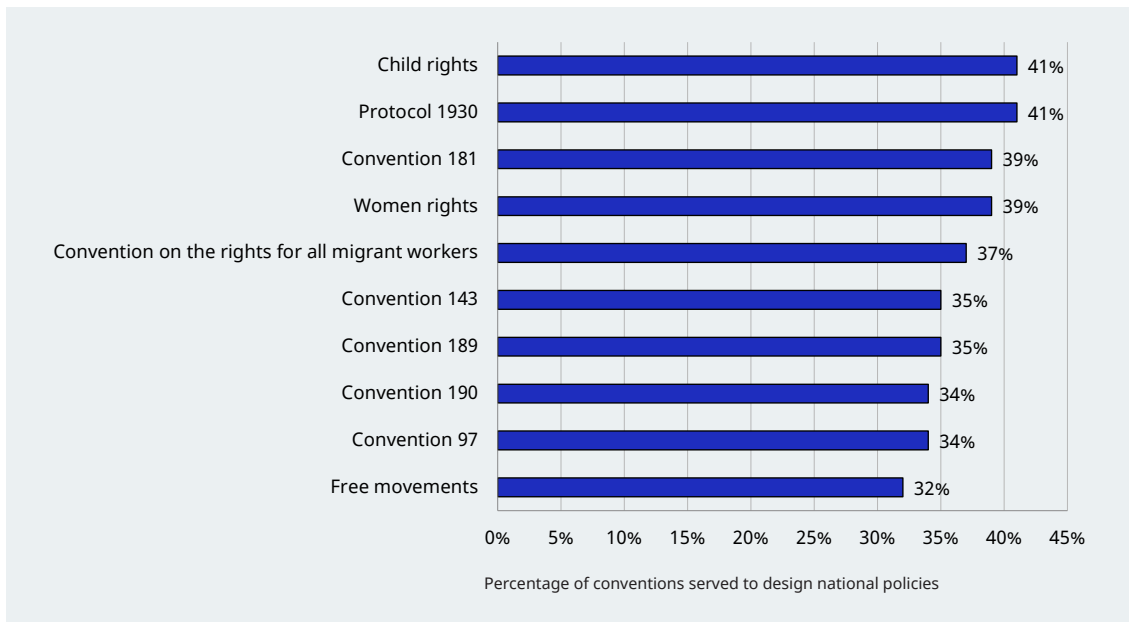
Section VII Technical cooperation with the AUC, ILO and IOM

► **Figure 88: Conventions that have served in the design of national laws**



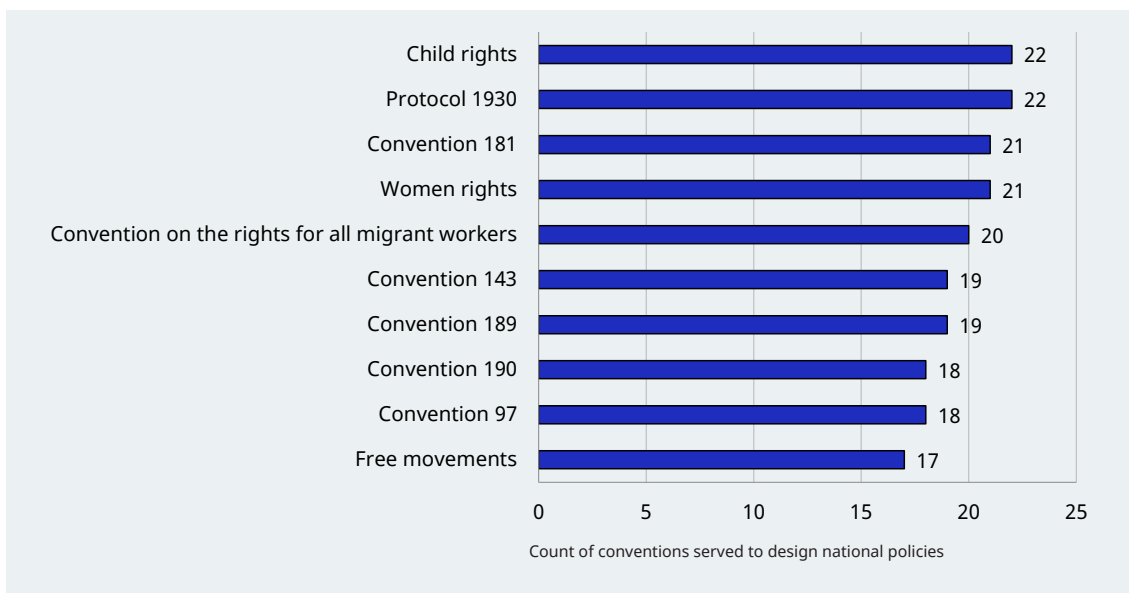
► **Figure 89: Conventions that have served in the design of national laws**

**Only captures respondents who selected yes*



► **Figure 90: Conventions that have served in the design of national laws**

**Only captures respondents who selected yes*



► Table 34: Conventions that have served in the design of national laws

Country	Convention 97	Convention 193	Convention 181	Convention 189	Convention 190	Protocol 1930	International convention	Convention on the rights of all migrant workers	Child Rights	Women rights
Algeria	yes	no	yes	no	no	yes	yes	yes	yes	yes
Cameroon	no	no	no	no	no	no	no	no	no	no
Democratic Republic of Congo	no	no	yes	no	yes	yes	yes	no	no	no
Egypt	-	-	-	-	-	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Côte d'Ivoire	no	no	yes	no	yes	yes	no	no	no	no
Kenya	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Morocco	yes	yes	no	no	no	no	yes	no	no	no
Nigeria	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Somalia	no	no	no	no	no	no	no	no	no	no
South Africa	-	-	-	-	-	-	-	-	-	-
Sudan	no	no	no	no	no	no	no	no	no	no
Uganda	-	-	-	-	-	-	-	-	-	-
Zimbabwe	yes	yes	yes	yes	yes	yes	yes	no	yes	yes

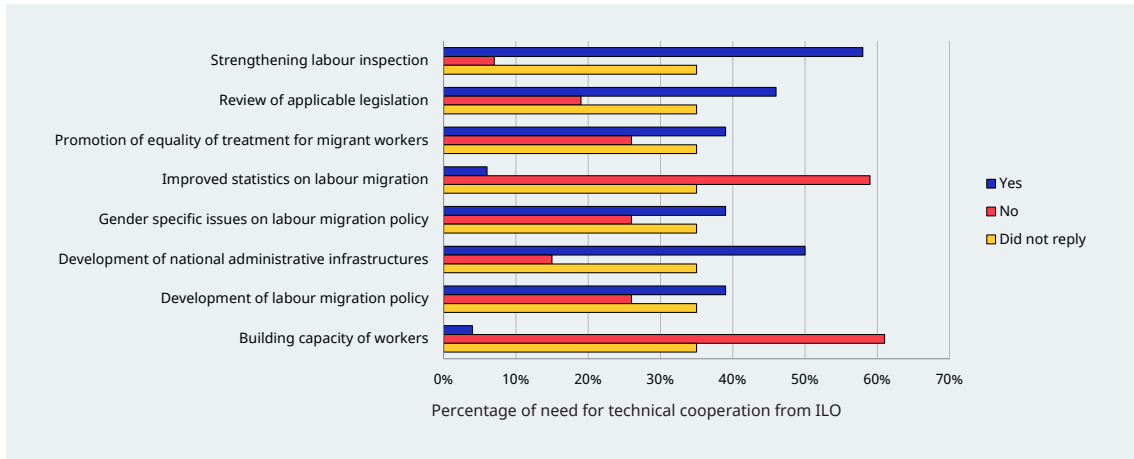
► Table 35: Recommendations and tools that have served in the design of national laws, policies, and practices

Country	AU migration Policy	r200	r201	r202	r203	r204	r205	r206	Bilateral	Prior Learning	Coherence	Knomad	Access to social protection	ILO and WB	ECOWAS
Algeria	yes	no	yes	yes	yes	yes	yes	yes	yes	no	yes	no	yes	yes	no
Cameroon	no	no	no	no	no	no	no	no	no	no	no	no	no	no	no
Democratic Republic of Congo	no	no	yes	yes	yes	yes	yes	yes	no	no	no	no	no	no	no
Egypt	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Côte d'Ivoire	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Kenya	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Morocco	yes	no	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Nigeria	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Somalia	no	no	no	no	no	no	no	no	no	no	no	no	no	no	no
South Africa	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sudan	no	no	no	no	no	no	no	no	no	no	no	no	no	no	no
Uganda	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Zimbabwe	yes	yes	yes	yes	no	yes	yes	yes	yes	no	no	no	no	no	no

Where;

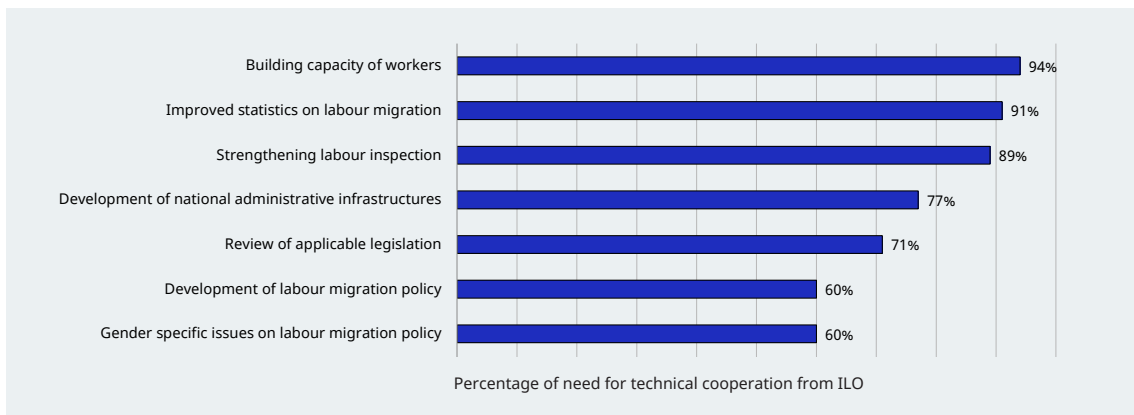
1. AU migration policy - African Union Revised Migration Policy for Africa
2. r200 - HIV and AIDs recommendation
3. r201 - Domestic workers recommendation
4. r202 - Social protection floors recommendation
5. r203 - Forced Labour recommendation
6. r204 - Transition from the informal to formal economy recommendation
7. r205 - Employment and decent work for peace and Resilience recommendation
8. r206 - Violence and harassment recommendation
9. Bilateral - Tool for the assessment of Bilateral Labour Agreements on Labour Migration
10. Prior Learning - Guide and training manual entitled: "The importance of recognizing prior learning of migrant workers"
11. Coherence - General practical guidance on promoting coherence among employment, education/training and labour migration studies
12. Knomad - Deficiencies in conditions of work as a cost to labour migration: Concepts, extent and implications
13. Access to social protection - Migrant access to social protection under bilateral labour agreements
14. ILO and WB - The contribution of labour mobility to Economic Growth
15. ECOWAS - Capacity Building Kit

► **Figure 91: Need for technical cooperation from the ILO regarding migration for employment in the following areas**

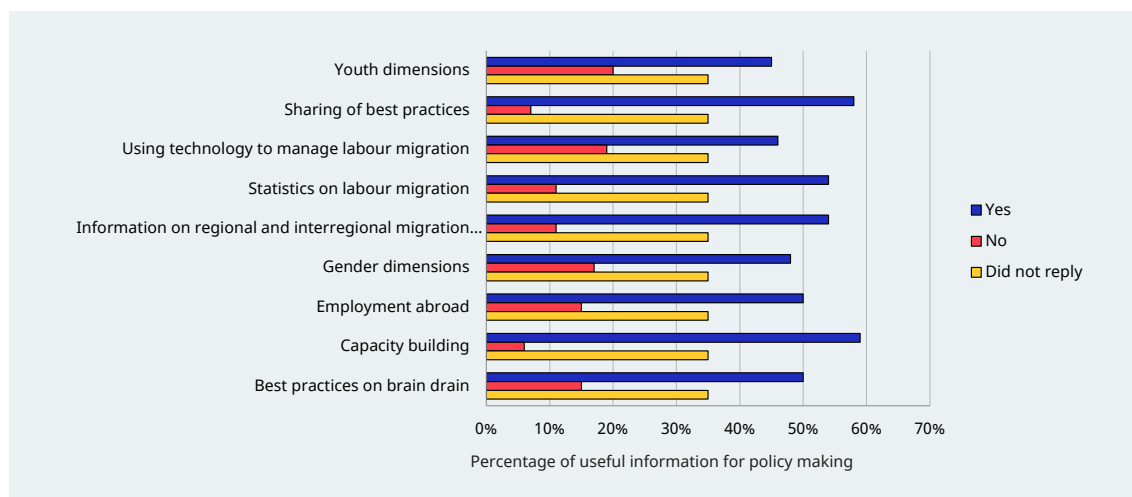


► **Figure 92: Need for technical cooperation from the ILO regarding migration for employment in the following areas**

**Only captures respondents who selected yes*



► **Figure 94: Information on labour migration that is useful for policy making**



► **Table 37: Information on labour migration that is useful for policy making**

Country	Statistics on labour migration	Best practices	Capacity building	Migration flows	Brain drain practices	Employment abroad	Gender dimensions	Youth dimensions	Technology to manage migration
Algeria	yes	yes	yes	yes	yes	yes	no	no	yes
Cameroon	yes	yes	yes	no	yes	no	no	no	yes
Democratic Republic of Congo	yes	yes	yes	yes	no	yes	no	no	yes
Egypt	-	-	-	-	-	-	-	-	-
Ethiopia	yes	yes	yes	yes	yes	yes	yes	yes	yes
Côte d'Ivoire	yes	yes	yes	yes	yes	yes	yes	yes	yes
Kenya	yes	yes	yes	yes	yes	yes	yes	yes	yes
Morocco	yes	yes	yes	yes	yes	yes	yes	no	no
Nigeria	yes	yes	yes	yes	yes	yes	yes	yes	yes
Somalia	no	yes	yes	yes	no	no	yes	yes	no
South Africa	-	-	-	-	-	-	-	-	-
Sudan	yes	yes	yes	yes	yes	yes	yes	yes	yes
Uganda	-	-	-	-	-	-	-	-	-
Zimbabwe	yes	yes	no	no	yes	yes	yes	yes	no

