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# GENDER ANALYSIS

GENDER MAINSTREAMING IN JLMP ACTION

15 December 2021

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## ACRONYMS AND ABBREVIATIONS

<b>AfCFTA</b>	African Continental Free Trade
<b>AU</b>	African Union
<b>AUC</b>	African Union Commission
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEPGL</b>	Convention Générale de la Sécurité sociale entre la République du Zaïre, la République Rwandaise et la République du Burundi
<b>CNLVFE</b>	National Committee for the Fight against Violence against Women and Children (Cote d'Ivoire)
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>EU</b>	European Union
<b>ECCAS</b>	Economic Community of Central African States
<b>FGM</b>	Female genital mutilation
<b>FOPREL</b>	Forum of Presiding Officer of Legislative Assemblies of Central America and the Caribbean Basin
<b>GBV</b>	Gender-based violence
<b>GCC</b>	Gulf Cooperation Council
<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>GIZ</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICMPD/EU</b>	International Center for Migration Policy Development
<b>ICRMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>CIPRES</b>	Inter-African Conference on Social Insurance
<b>ILO</b>	International Labour Organisation
<b>IOM</b>	International Organisation for Migration
<b>JLMP</b>	Joint Labour Migration Programme
<b>MIDCAS</b>	The Migration Dialogue for Central African States
<b>MIDCOM</b>	The Migration Dialogue from the Common Market for Eastern and Southern Africa Member States
<b>MINAS</b>	Ministry of Social Affairs (Cameroon)
<b>MINTSS</b>	Ministère du Travail et de la Sécurité Sociale (Cameroon)
<b>MOLSA</b>	Ministry of Labour and Social Affairs (Ethiopia)
<b>MPFA</b>	African Union Migration Policy Framework for Africa
<b>NSIA</b>	Moroccan National Strategy for Immigration and Asylum
<b>PTIS</b>	African Continental Free Trade (AfCFTA)
<b>REC</b>	Regional Economic Community
<b>SAMM</b>	The Southern African Migration Management Project
<b>SDGs</b>	Sustainable Development Goals
<b>UN</b>	United Nations
<b>UNECA</b>	United Nations Economic Commission for Africa
<b>UNGA</b>	United Nations General Assembly
<b>UNHCR</b>	UN High Commissioner for Refugees
<b>UNRISD</b>	United Nations Research Institute for Social Development
<b>WEF</b>	World Economic Forum

## GLOSSARY

<b>Asylum seeker</b>	An individual who is seeking international protection. In countries with individualized procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker will ultimately be recognized as a refugee, but every recognized refugee is initially an asylum seeker.
<b>Border officials</b>	A generic term describing those officials whose primary task is to guard the border and enforce the immigration (and possibly customs) laws of the State. Also termed “border guards”, “border police” or “aliens police”.
<b>Capacity building</b>	Building capacity of governments and civil society through strengthening their knowledge, skills, and attitudes. Capacity building can take the form of substantive direct project design and implementation with a partner government, or in other circumstances can take the form of facilitating a bilateral or multilateral agenda for dialogue development put in place by concerned authorities. In all cases, capacity building aims to build towards generally acceptable benchmarks of management practices.
<b>Country of destination</b>	In the migration context, a country that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly. Note: In the context of movements of internally displaced persons (IDPs) the term “place of destination” should be used. See also host country, receiving country.
<b>Country of origin</b>	In the migration context, a country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly.
<b>Gender</b>	The culturally shaped expression of sexual difference, and the social attributes and opportunities associated with those expressions along with the relationships between women and men and girls and boys.
<b>Gender equality</b>	A situation of equal rights, responsibilities and opportunities for women and men and girls and boys.
<b>Gender Mainstreaming</b>	The process and practice of giving attention to gender perspectives as an integral part of all activities across all programmes.
<b>Gender and sexual minorities</b>	Sexual minorities are groups of people whose sexual orientation, gender identity, gender expression, or sexual characteristics are different from the presumed majority of the population, which are heterosexual, cisgender, and non-intersex individuals.
<b>Domestic workers</b>	Domestic workers generally work for private households. They may not always have clear terms of employment and are often excluded from the scope of labour legislation. Their work may include tasks such as cleaning the house, cooking, washing, and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, or driving the family

<b>Host country</b>	See country of destination. Note: In the context of returns, the term is used as opposed to country of origin and as an alternative to country of destination or sending country to provide clarity in the identification of the various countries involved. In other contexts, the term “host country” is generally best avoided, as it may imply a particular relationship between migrants (“guests”) and natives (“hosts”) which may be misleading and could undermine the integration of migrants.
<b>Human rights</b>	Those liberties and benefits which, by accepted contemporary values, all human beings should be able to claim “as of right” in the society in which they live. These rights are contained in the International Bill of Rights, comprising the Universal Declaration of Human Rights, 1948 and the International Covenants on Economic, Social and Cultural Rights, and on Civil and Political Rights, 1966 and have been developed by other treaties from this core (e.g., The Convention on the Elimination of All Forms of Discrimination against Women, 1979; International Convention on the Elimination of All Forms of Racial Discrimination, 1965).
<b>Irregular migrant</b>	See migrant in an irregular situation.
<b>Labour force participation rate</b>	The proportion of a country’s working-age population that actively engages in the labour market, either by working or looking for work.
<b>Labour migration</b>	Movement of persons from their home State to another State for the purpose of employment. Labour migration is addressed by most States in their migration laws. In addition, some States take an active role in regulating outward labour migration and seeking opportunities for their nationals abroad.
<b>Migrant</b>	An umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. At the international level, no universally accepted definition of migrant exists.
<b>Migrants in an irregular situation</b>	A person who moves or has moved across an international border and is not authorized to enter or to stay in a State pursuant to the law of that State and to international agreements to which that State is a party.
<b>Migration</b>	A process of moving, either across an international border or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, uprooted people, and economic migrants.
<b>Migration management</b>	The management and implementation of the whole set of activities primarily by States within national systems or through bilateral and multilateral cooperation, concerning all aspects of migration and the mainstreaming of migration considerations into public policies. The term refers to planned approaches to the implementation and

	operationalization of policy, legislative and administrative frameworks, developed by the institutions in charge of migration.
<b>Receiving country</b>	Usually, the country of destination of a migrant. In the case of return or repatriation, also the country of origin or, in the context of resettlement, a country that has accepted to receive a certain number of migrants, including refugees, on a yearly basis by presidential, ministerial, or parliamentary decision. See also country of destination, country of origin.
<b>Irregular migration</b>	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. Although a universally accepted definition of irregular migration does not exist, the term is generally used to identify persons moving outside regular migration channels. The fact that they use irregular migration channels does not imply that States are not, in some circumstances, obliged to provide them with some forms of protection under international law, including access to international protection for asylum seekers fleeing persecution, conflicts, or generalized violence. Moreover, categories of migrants who may not have any other choice but to use irregular migration channels can also include refugees, victims of trafficking, or unaccompanied migrant children.
<b>Refugee (recognized)</b>	A person, who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.” <sup>1</sup>
<b>Regular migration</b>	Migration that occurs in compliance with the laws of the country of origin, transit, and destination. See also clandestine migration, irregular migration.
<b>Sex worker</b>	The term “sex worker” recognises that sex work is work. Sex workers earn an income through sex work by sell sexual services.
<b>Trafficking in persons</b>	The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. <sup>2</sup>
<b>Working-age population</b>	People aged 15 years and above who are able to account for their involvement in any economic activity.

<sup>1</sup> Convention relating to the Status of Refugees, Art. 1A (2), 1951 as modified by the 1967 Protocol.

<sup>2</sup> Art. 3(a), UN Protocol to Prevent, Suppress and Punish trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organized Crime, 2000.

## **EXECUTIVE SUMMARY**

The AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP) is a long-term joint undertaking among four organizations in coordination with other relevant partners which seeks to implement the 5th Key Priority Area of the Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development which was adopted by the Assembly of Heads of States and Governments (AU/Assembly/AU/20(XXIV)/Annex 3, January 2015) in Addis Ababa, Ethiopia.

As part of achieving the JLMP Strategic Framework, the JLMP is conducting a Gender Analysis in order to understand the structural and societal variables that affect the role of gender in labour migration and to fully integrate a gender-equality perspective into the work of the JLMP, supported by the Swiss Agency for Cooperation and Development (SDC) and the German Federal Ministry for Economic Cooperation and Development, through the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ).

Labour migration is a valuable tool for the advancement of inclusive development in Africa. Migrants contribute positively to the labour force in countries of destination and send significant and valuable remittances back to their countries of origin. Enabling safe migration for all is therefore an opportunity to advance gender-sensitive development across the continent that contributes to both socio-economic development and gender equality. Gender equality is known to be strongly correlated with socio-economic development and may therefore be considered an accelerant of other development efforts as well.

However, pervasive and persistent gender discrimination and inequality limit the opportunities for women to more fully contribute to these developmental goals, and place migrant women and gender minorities at risk of violence, abuse and discrimination during the migration experience as well as on arrival in countries of destination. Further, policymaking and dialogue processes on migration in Africa continue to fail to give gender due consideration in their activities.

By conducting a mixed-method research project evaluating the state of gender in labour migration policy in Africa, based on desktop research, data collection, and stakeholder consultation, we find that a person's sex, gender, gender identity and sexual orientation shapes every stage of the labour migration experience, from where and how people migrate to the risks and vulnerabilities they face as well as opportunities and resources available at destinations. For example, some women migrant workers report gender-related considerations for migration including forced early marriage and escaping violence and discrimination in their countries or origin. Women face higher risks of violence, including sexual violence and vulnerability to human trafficking, in their migration journeys, and frequently suffer systematic challenges to accessing the necessary information to stay informed and safe on their journeys, as well as to access legal and psycho-social support services. On the other hand, men migrant workers suffer from limited employment opportunities as a result of gender-segregated labour markets and are often unable to receive the support and help they need to vindicate their rights due to outdated gender stereotypes.

By evaluating the legal and institutional frameworks on migration in each of the five target countries and two priority Regional Economic Communities (RECs), as well as gender norms and



socio-economic indicators related to gender, we paint a picture of the particular gender-specific challenges and risks faced by migrant workers in these regions, and the opportunities to better support their economic contributions and defend their human rights in these contexts.

Finally, we turn to the JLMP Strategic Framework which sets out a vision for improving the state of labour migration on the continent over the coming ten-year period. By applying the same analytical framework, a picture emerges of the ways in which the Strategic Objectives of the JLMP already speak to the particular gender-specific needs of migrant workers, for example by seeking to address the dearth of sex-disaggregated migration data on the continent and targeting policy reforms to provide safe and secure working environments for women, men and gender and sexual minority migrant workers. The latter is particularly relevant from a gender perspective, since women migrant workers face structural barriers to accessing independent documentation, social protection and safe, equal employment opportunities, and as well as when exercising their civic life and remitting funds back home.

The case for further efforts to gender mainstream migration policy in Africa is therefore clear. Across the target countries and priority RECs of the JLMP, migrant workers continue to face gender-based discrimination and unequal opportunities that limits their economic and social opportunities, and violations of their human rights in the migration journey. This limits the ability to realise the full potential of all migrants to contribute to development both in countries of origin and destination, and to ensuring the full protection of the rights of migrant workers.

As the proportion of women migrant workers in Africa continues to grow, labour migration policy on the continent must keep pace with growing developments in this area. The JLMP is to be commended on their efforts to integrate a gender-equality lens into the work of this important multistakeholder initiative. As is demonstrated in this analysis, there are already promising green shoots in this regard, and various ways in which the negative consequences of gender differences in labour migration can be mitigated and the positive opportunities leveraged in order to stimulate the maximum developmental benefits from labour migration and to ensure the full protection of the rights of all migrant workers.

## **1. INTRODUCTION**

### **1.1. Introduction to the JLMP and the gender mainstreaming project**

The AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP) is a long-term joint undertaking among the four organizations in coordination with other relevant partners operating in Africa, including development cooperation actors, private sector organizations 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 Assembly of Heads of States and Governments (AU/Assembly/AU/20(XXIV)/Annex 3, January 2015) in Addis Ababa, Ethiopia.

In line with the JLMP Strategic Framework, the Swiss Agency for Cooperation and Development (SDC)-funded project Catalytic Actions for the AU-ILO-IOM-UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP Action) aims to contribute to the JLMP objective of strengthening the effective governance and regulation of labour migration and mobility for enhanced sustainable development for inclusive economic growth and regional integration of the African Continent. The German Federal Ministry for Economic Cooperation and Development, through the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), is also supporting the development of the JLMP Capacity Building Strategy.

As part of this initiative, the JLMP is conducting a Gender Analysis to present and understand relevant quantitative and qualitative information on structural and societal variables in the context of gender and labour migration, including women and men migrant workers' roles, needs, opportunities, challenges, access to resources and decision-making, and power dynamics, as well as gender dimensions of relevant frameworks such as laws, policies, bilateral labour agreements and multilateral cooperation mechanisms. The objective is to fully integrate a gender-equality perspective into planning and programming of the JLMP in order to best respond to the gendered nature of migration in the world today.

This document, therefore, serves to present the outcomes of this Gender Analysis process, including identifying persistent gaps and challenges in realising equal rights and opportunities for women and men migrant workers.

The report begins by providing an introduction to the justification for a Gender Analysis for JLMP, and an overview of migration trends in Africa, particularly as they relate to women and girls, followed by an overview of the methodology and scope of the analysis. It then moves into a deeper review of the role of gender in migration, before applying the Standard Assessment Framework that was developed for the purposes of this project to each of the target countries and priority Regional Economic Communities (RECs). We then interrogate the role of gender in the JLMP Strategic Framework 2020-2030, before concluding.

It must be noted that this document is to be followed and complemented by a Gender Action Plan which will set out key recommendations for the JLMP to most effectively incorporate a gender equality perspective into its programming and operations.

## 1.2. Migration as a development issue

According to the African Union, “research and the African Union’s Security Council affirm that the benefits of free movement of persons in Africa far outweigh perceived or real challenges and costs.”<sup>3</sup> Migration should therefore be seen as a valuable tool for the advancement of inclusive development in Africa, and a way to overcome the growing sentiment that despite Africa’s promising growth prospects, development has become “less inclusive.”<sup>4</sup>

Labour force participation rates of migrants are favourable relative to non-migrant populations, underscoring the importance of migrants for economic activity and development.<sup>5</sup> In South Africa, for example, studies have shown a positive relationship between the arrival of new labour migrants on the employment rate and monthly wages of natives.<sup>6</sup>

This, therefore, explains the inclusion of migration as a primary topic in a number of international development instruments. For example, six of the 17 Sustainable Development Goals (SDGs) make explicit references to migration, particularly Goals eight and ten which refer to protecting the labour rights and promoting safe and secure working environments for all workers, including migrant workers, and in particular women migrants,<sup>7</sup> and facilitating the orderly, safe, regular, and responsible migration and mobility of people as well as reducing the costs of migrant remittances,<sup>8</sup> respectively.

The AUC’s Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication, and Inclusive Development in Africa, adopted in 2015, likewise highlights the importance of migration in development by naming labour migration and regional economic integration as one of six key priority areas.<sup>9</sup>

Women migrant workers contribute significantly — and have potential to contribute further with enabling policy — to development across the continent. Migrant remittances regularly surpass the amount of foreign direct investment and overseas development aid in many developing countries, and as such, there is increasing attention on the role of remittances in facilitating economic growth.<sup>10</sup> Women migrants are more likely to send home a higher proportion of their income, and these funds are more likely to be spent on health, education, family, and community development.<sup>11</sup> For example, various studies have shown that remittances from women migrant workers can narrow the gender gap in employment and education.<sup>12</sup> The extra income also

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<sup>3</sup> AU and IOM, ‘Study on the Benefits and Challenges of Free Movement of Persons in Africa’, (2018) at p. 11 (accessible [here](#)).

<sup>4</sup> *Ibid.*

<sup>5</sup> JLMP, ‘Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)’, (2020) at p. 10 (accessible [here](#)).

<sup>6</sup> International Labour Organization, ‘Labour Migration in Africa’, (accessible [here](#)).

<sup>7</sup> UN, ‘Sustainable Development Goals’, (2015) at Target 8.8 (accessible [here](#)).

<sup>8</sup> *Ibid* at Targets 10.7 and 10.c.

<sup>9</sup> AUC, ‘Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa’, (2015) (accessible [here](#)).

<sup>10</sup> UN Women, ‘Women Migrant Workers’ Contributions to Development’, (2017) (accessible [here](#)).

<sup>11</sup> *Ibid.*

<sup>12</sup> Bachan, ‘An Exploration of the Gender-Migration-Development Nexus: The Impact of Labor Migration on Women’s Empowerment’, (2018) Consilience, Columbia University (accessible [here](#)).

serves as a safety net, enabling high-risk but profitable economic activities such as investing or starting a new business, as well as increasing domestic savings.<sup>13</sup> Women migrants also contribute to social remittances — transfers of practices, norms, identities, social capital, knowledge, ideas, and skills — that have positive social impacts across households and communities in origin and destination countries, although they are difficult to quantify.<sup>14</sup> For example, research found that Wolof women migrants from Senegal living in the United States contributed significantly to household expenses which in turn shifted gender power relations within the household, giving the women a larger voice in decisions about reproductive issues, childcare etc.<sup>15</sup> Greater participation of women in reproductive decisions has also been found to contribute positively to economic development.<sup>16</sup> Women migrant workers who return to countries of origin are increasingly seen as role models and contribute to changing perceptions about the role of women in the workplace.<sup>17</sup> Finally, in making significant contributions to the labour force of countries of destination, particularly in the care economy, women migrant workers free up other workers to engage in the productive labour market, which in turn contributes to economic growth in these countries. Women migrant workers fill care deficits left by lack of affordable public care services and health sector cut-backs, grow the size of the labour force in countries of destination, and typically contribute more in taxes and social contributions than they take in benefits.<sup>18</sup>

Enabling safe migration for women and girls is therefore an opportunity to advance gender-sensitive development across the continent that contributes to both socio-economic development and gender equality. Gender equality is known to be strongly correlated with socio-economic development and may therefore be considered an accelerant of other development efforts as well. Achieving SDG 5 — on gender equality — also requires effectively responding to the specific needs of women migrants in migration policy in Africa.

At the same time, it is known that women still participate in the labour force at lower rates than men across the continent,<sup>19</sup> highlighting the economic opportunities that exist by improving gender parity in the workforce. This is a consequence of pervasive and persistent gender discrimination as well as gender-specific norms and stereotypes that manifest in various ways, however, the gender divide in labour participation has been shrinking in recent years.<sup>20</sup>

By failing to adequately incorporate a gender lens in policy making decisions concerning migration, we run the risk of insufficiently considering the full range of ways in which women migrants contribute to development, such as through social remittances like ideas and

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<sup>13</sup> *Ibid.*

<sup>14</sup> UN Women, 'Women Migrant Workers' Contributions to Development', (2017) (accessible [here](#)).

<sup>15</sup> Bachan, 'An Exploration of the Gender-Migration-Development Nexus: The Impact of Labor Migration on Women's Empowerment', (2018) Consilience, Columbia University at p. 13 (accessible [here](#)).

<sup>16</sup> Finlay and Lee, 'Identifying Causal Effects of Reproductive Health Improvements on Women's Economic Empowerment Through the Population Poverty Research Initiative', (2018) Milbank Q (accessible [here](#)).

<sup>17</sup> Bachan, 'An Exploration of the Gender-Migration-Development Nexus: The Impact of Labor Migration on Women's Empowerment', (2018) Consilience, Columbia University at p. 13 (accessible [here](#)).

<sup>18</sup> UN Women, 'Women Migrant Workers' Contributions to Development', (2017) (accessible [here](#)).

<sup>19</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 5 (accessible [here](#)).

<sup>20</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 26 (accessible [here](#)).

behaviours, and alternative mechanisms for remitting to overcome the peculiar challenges women face in accessing and using formal financial systems.<sup>21</sup> For instance, a high proportion of care worker positions in many countries are filled by migrant women, which creates a foundation for the rest of the population to move into other work by leaving the home. Historically, this trend was most commonly seen in countries in the Global North, but is increasingly beginning in middle-income countries in the Global South as well, including those in Africa.<sup>22</sup> Further, by failing to account for the many costs and challenges facing women migrants, labour migration policy also risks failing to mitigate the negative developmental costs of, for example, the perpetuation of traditional gender norms, increased discrimination against women migrants, and abusive or exploitative labour practices.<sup>23</sup> These workers have therefore been referred to as “the invisible case of the entire socio-economic system.”<sup>24</sup>

### 1.3. Migration trends in Africa relating to gender

As detailed in the JLMP Strategic Framework, migration in Africa is rapidly increasing in terms of the quantum of migrants and is primarily driven by intra-African migration.<sup>25</sup> International migration in Africa has also increased significantly over the past ten years, 78% of which are working migrants.<sup>26</sup>

Women make up nearly half of all migrants globally,<sup>27</sup> and just short of half in Africa,<sup>28</sup> and the proportion of women migrants continues to grow.<sup>29</sup> Indeed, the growth of women migrants is outstripping general population growth amongst the female population.<sup>30</sup> However, the persistent gender gap in the migrant population is an indication of unequal opportunities and unique challenges faced by women migrants, despite the fact that the number of working-age African women is higher than that of men.<sup>31</sup>

Nevertheless, policymaking and dialogue processes on migration in Africa continue to fail to give gender due consideration in their activities. For example, in the 2020 Africa Migration Report, eight inter-state dialogue processes on migration in Africa are listed, covering a wide range of main areas of discussion such as the prevention of human trafficking and voluntary return of

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<sup>21</sup> European Union and UN Women, ‘Mainstreaming Migration Into Development Planning From A Gender Perspective’, (2017) (accessible [here](#)).

<sup>22</sup> UN Women, ‘Women Migrant Workers’ Contributions to Development’, (2017) (accessible [here](#)).

<sup>23</sup> European Union and UN Women, ‘Mainstreaming Migration Into Development Planning From A Gender Perspective’, (2017) (accessible [here](#)).

<sup>24</sup> *Ibid* at p. 3.

<sup>25</sup> JLMP, ‘Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)’, (2020) at p. 10 (accessible [here](#)).

<sup>26</sup> African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at p. 4 (accessible [here](#)).

<sup>27</sup> African Union, ‘The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)’, (2018) at p. 4 (accessible [here](#)).

<sup>28</sup> African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at p. 31 (accessible [here](#)).

<sup>29</sup> African Union, ‘The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)’, (2018) at p. 5 (accessible [here](#)).

<sup>30</sup> African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at p. 31 (accessible [here](#)).

<sup>31</sup> *Ibid* at p. 3.

migrants.<sup>32</sup> However, not a single one focuses explicitly on the gender dimensions of migration on the continent, despite the fact that migration is clearly a highly gendered process, as this report will make evident. While many migration reports and policy documents refer in general terms to the importance of “gender-sensitive” or “gender-responsive” policymaking, few have managed to meaningfully integrate a nuanced and substantial gender perspective.

This sits in contrast to the mandate of the UN Global Compact for Safe, Orderly and Regular Migration (GCM), which calls for the specific needs of women and girls to be properly understood and addressed.<sup>33</sup> This Gender Analysis will therefore review the ways in which gender affects migration experiences, and lay the groundwork for a detailed action plan that will identify ways to more effectively accommodate gender dimensions of migration in policymaking, as well as use migration policy to advance gender equality across the continent.

#### 1.4. Methodology and Scope

The research for this Analysis relied on a mixed methods approach that included the following components:

- **Desk review:** conducting desktop, policy, and legal research, including reviewing key resources, researching societal and structural variables in the context of gender and labour migration, including the state of gender inclusion in migration policies in each of five priority countries (Cameroon, Cote d’Ivoire, Ethiopia, Malawi, and Morocco) and two target RECs (COMESA and ECCAS), and identifying the gender dimensions of relevant frameworks including laws, policies, bilateral labour agreements, and multilateral cooperation mechanisms;
- **Data collection:** collecting existing qualitative and quantitative data on the gender environment, particularly sex-disaggregated data on gender dimensions within labour migration, within each priority country and target REC;
- **Stakeholder feedback:** collating written and verbal contributions from key stakeholders through the use of online surveys and an online data collection portal;
- **Assessment and analysis:** synthesising findings from the desk review and stakeholder feedback and assessing priority countries, target RECs, and the JLMP Strategic Framework through the lens of gender according to the Standard Assessment Framework (discussed further below).

A Standard Assessment Framework was adopted in order to ensure consistency across analysis of the target countries and priority RECs, which comprised of an analysis of the macro (policies and laws), meso (institutions), meta (gender norms) and micro (socio-economic indicators) factors in the relevant domains.

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<sup>32</sup> AU, IOM, SDC and US Department of State, ‘Africa Migration Report’, (2020) at p. 7-8 (accessible [here](#)).

<sup>33</sup> UN, ‘Global Compact for Safe, Orderly and Regular Migration’, (2018) (accessible [here](#)).

For the purposes of this report, the scope has been kept relatively broad in order to give a comprehensive view of the experiences of women and gender minority migrant workers. We adopt the same definition of a migrant worker as that in the JLMP Strategic Framework 2020-2030 (the JLMP Strategic Framework): a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.<sup>34</sup>

We also review all of the following sub-sets of migration types:

- Forced and voluntary migration;
- Skilled and unskilled migrant workers;<sup>35</sup>
- Irregular and regular migration;
- Internal and cross-border migration.<sup>36</sup>

### **1.5. The importance of gender-responsive migration policy**

It is crucial that policymaking efforts take a gendered lens in order to ensure that policy appropriately addresses the particular experiences of women in migration. A gender-neutral lens will tend to perpetuate existing inequalities and gendered dynamics, because it will prevent adequate protections and accommodations being put in place to counter existing gendered power dynamics. For example, migration policies prioritising skilled over unskilled labour will discriminate against women, who are more likely to be unskilled migrants.

According to UN Women, “the continued lack of safe and regular migration pathways and gender-responsive migration policies have significant short- and long-term consequences,” particularly for women working in the informal economy, “where the limited or non-existent enforcement of labour protections puts them at high risk of labour rights abuses, sexual and gender-based violence (GBV), racism, and xenophobia.”<sup>37</sup>

While we must be cautious not to view women migrants as a homogenous group, or to rely on outdated gender stereotypes, we need to better understand the gender-specific elements of migration in order to develop more appropriate and gender-responsive policies that better serve migrants who are women or gender minorities. We must also explicitly acknowledge that women migrants are not inherently vulnerable but are instead subject to multiple and various forms of intersecting discrimination that often place them in situations of vulnerability despite their inherent autonomy and power. Efforts to support women migrants in Africa must therefore place strong emphasis on the agency of women migrants themselves, and intentionally create opportunities for their participation and engagement in decisions that affect them in order to undo the cycle of patronising and ineffective gender-related policymaking.

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<sup>34</sup> JLMP, ‘Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)’, (2020) at p. 9 (accessible [here](#)).

<sup>35</sup> Although unskilled workers make up the majority of African migrants on the continent, the number of higher-skilled workers has been increasing over recent years, according to the African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at p. 5 (accessible [here](#)).

<sup>36</sup> Although the JLMP Strategic Framework 2020-2030 focuses primarily on intra-African labour migration since over 60% of migrant workers remain on the continent, we have taken a more flexible approach to the issue of labour migration in order to give a comprehensive view of the experiences of women and gender minorities migrant workers.

<sup>37</sup> UN Women, ‘Explainer: How Migration is a Gender Equality Issue’, (2020) (accessible [here](#)).

We must also acknowledge the role of intersecting identities and factors that may amplify discrimination based on gender. This intersectionality affects how women migrants experience gender-related dimensions of the migration experience, and may include, for example, race, ethnicity, religion, country of origin, class, age, health status, marital status, etc. For example, some women migrants may experience amplified xenophobia in countries of destination as a result of their country of origin, while others do not. These intersecting identities must likewise be taken into account when designing migration policies and programmes.

Finally, it must be noted that gender norms, stereotypes, and discrimination within labour migration have negative consequences not only for women and gender and sexual minority migrants, but also for men. Men are likely to feel the pressure to provide for their families and be effective breadwinners more strongly, potentially forcing them into unsafe migration routes in order to find better economic opportunities or to send remittances home to the detriment of their own quality of life. They, therefore, suffer the negative consequences of separation from their families and communities and of being forced into unsafe or exploitative employment in order to provide for their families either back home or who have accompanied them to a new destination. Men also face risks inherent in unsafe migration, including of violence and exploitation, but are likely to face greater social stigma in reporting these experiences and seeking recourse due to gender stereotypes about masculinity and physical strength. Men are discouraged or disenabled from entering traditionally women-dominated sectors such as care work, limiting their employment options and potentially subjecting them to discrimination and social stigma if they do attempt to do so. This is particularly problematic when taking into account the fact that it is care-related sectors that have experienced the most growth in common countries of destination around the world in recent years.<sup>38</sup> Difficulty finding employment has serious implications for migrant men's sense of masculinity and for gender dynamics within the home. Finally, return to countries of origin can be difficult for men because they are perceived as having failed, and men who are left behind when their wives migrate for work may suffer challenges to their sense of masculinity and struggle to cope with the new burdens of childcare and domestic work. Gender-responsive labour migration policy is therefore crucial for maximising the developmental potential of all labour migrants.

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<sup>38</sup> IOM, 'Gender and Labour Migration in Asia', (2009) (accessible [here](#)) and ILO, 'Women and the Future of Work – Taking care of the caregivers', (2015) (accessible [here](#)).



## 2. GENDER-RELATED TRENDS IN MIGRATION IN AFRICA

It is evident that a person's sex, gender, gender identity and sexual orientation shapes every stage of the migration experience, from where and how people migrate to the risks and vulnerabilities they face as well as opportunities and resources available at destinations.<sup>39</sup> Migration may provide new opportunities for women that were unavailable in their places of origin, for example, research shows that levels of discrimination in destination countries play an important role in shaping female migration flows, as migrant women are often attracted to countries where more gender-equitable norms and practices offer them greater freedom and rights.<sup>40</sup>

But it can also "entrench traditional roles and inequalities and expose women to new vulnerabilities as the result of precarious legal status, exclusion and isolation."<sup>41</sup> Women and gender minorities face particular risks and vulnerabilities during transit and at their destinations. However, there is a dearth of sex-disaggregated data on migration in Africa which makes analysis difficult. As of 2005, there was some evidence of increasing internal migration by women around the world,<sup>42</sup> but it is also clear that formal statistics fail to capture the full picture with regards to irregular migration, which is hard to document. Sex-disaggregated statistics on internal migration are particularly sparse relative to international migration.<sup>43</sup> The International Organisation for Migration (IOM) has also noted that migration among African countries is likely to be the least well-documented migration flow globally,<sup>44</sup> exacerbating the knowledge gap.

What is known is that women make up 42% of migrant workers globally,<sup>45</sup> and while globally migrant women participate in the labour force at higher rates on average than non-migrant women (63,5%),<sup>46</sup> the situation in Africa is reversed, with migrant women in Sub-Saharan Africa participating in the labour force at a rate of 47,3% compared to 65% for the non-migrant population.<sup>47</sup> There were approximately 5.6 million international women migrant workers in Africa in 2019.<sup>48</sup> Further, while around 74% of migrant women work in service-sector jobs, including domestic work and healthcare, they are also employed in various other sectors and in highly skilled professions.<sup>49</sup>

This review is therefore timely in providing an update on the state of knowledge with regards to gender and migration and applying it to the target countries, priority RECs and the Strategic Framework of the JLMP. Effective governance of migration requires taking appropriate stock of

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<sup>39</sup> International Organisation for Migration, 'Gender and Migration', (accessible [here](#)).

<sup>40</sup> IOM, 'Migration in the 2030 Agenda', (2017) at p. 65 (accessible [here](#)).

<sup>41</sup> Bridge, 'Gender and Migration', 2005 at p. 1 (accessible [here](#)).

<sup>42</sup> United Nations Research Institute for Social Development (UNRISD), 'Gender Equality: Striving for Justice in an Unequal World', 2005 at p. 7 (accessible [here](#)).

<sup>43</sup> *Ibid* at p. 8.

<sup>44</sup> International Organization for Migration (IOM), 'World Migration 2005: Costs and Benefits of International Migration', 2005 (accessible [here](#)).

<sup>45</sup> *Ibid*.

<sup>46</sup> *Ibid*.

<sup>47</sup> JLMP, 'Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)', (2020) at p. 10 (accessible [here](#)).

<sup>48</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 28 (accessible [here](#)).

<sup>49</sup> UN Women, 'Explainer: How Migration is a Gender Equality Issue', (2020) (accessible [here](#)).

the various ways in which gender is a primary factor in migration experiences, and appropriately adapting policy and regulations in response.

### **2.1. Gender differences in reasons for migration**

Women in Africa migrate for many of the same reasons as other migrants, including to search for a better standard of living, to escape poverty or climate change, as well as to flee political persecution. However, an additional common reason for women to migrate is to escape sexual violence and gender discrimination or limited opportunities for women in their countries of origin, as well as oppressive gender norms and expectations. For example, 27% of women migrating from Afghanistan have indicated that their main reason for leaving was to escape domestic violence.<sup>50</sup> It should also be noted, though, that migration can also serve as a trigger or aggravating factor for domestic violence.<sup>51</sup>

Additional reasons for migration frequently reported by women include escaping early and forced marriage, family pressures or female genital mutilation, or, for gender minorities, to move to countries or places with more progressive legislation and greater social acceptance.<sup>52</sup> Women are also more likely to migrate for the purposes of family reunification.<sup>53</sup> Finally, it is worth noting that the growth of service sector industries across Africa, such as domestic and care work,<sup>54</sup> may constitute a pull factor for many women migrants who work in these traditionally female-dominated professions.

In Africa, women tend to move shorter distances than men, and women migrants are more likely to migrate internally than migrant men,<sup>55</sup> potentially indicating further differences in the motivations and reasonings behind migration between women and men migrants.

As discussed above, men migrants face the burden of gender stereotypes relating to providing for their families that pushes them into unsafe or irregular migration.

### **2.2. Physical safety, sexual violence, and gender-based violence**

Migrant workers face pervasive and intersecting forms of discrimination that impact their wellbeing and safety at all stages of the migration journey and their employment experiences. Studies show that whether migrants enter States with authorization or being undocumented, they generally find their rights diminished in comparison with the citizens of their country of residence.<sup>56</sup> Gender is a primary determining factor in many of these experiences.

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<sup>50</sup> *Ibid.*

<sup>51</sup> IOM 'Taking Action against Violence and Discrimination Affecting Migrant Women and Girls', (2015) (accessible [here](#)).

<sup>52</sup> UN Women, 'Explainer: How Migration is a Gender Equality Issue', (2020) (accessible [here](#)).

<sup>53</sup> UNRISD at fn. 42 at p. 11.

<sup>54</sup> World Bank, 'The Labour Market for Heath Workers in Africa: A New Look at the Crisis', (2013) (accessible [here](#)).

<sup>55</sup> United Nations Research Institute for Social Development (UNRISD), *Gender Equality: Striving for Justice in an Unequal World*, 2005 at p. 7 (accessible [here](#)).

<sup>56</sup> African Union, 'Thematic Area 4: Addressing Gaps in Migrant Protection: The Future of Human Mobility: Innovative Partnerships for Sustainable Development (Technical Paper)', (2020).

For example, women migrants face a pervasive and traumatic lack of safety on migration routes. Sexual violence rates along migration routes are shockingly high: an estimated 60-80% of women and girls travelling from Mexico to the United States are raped at some stage of their journey, while the figure is as high as 90% for those travelling along the Mediterranean route to Italy.<sup>57</sup> Comparable figures for Africa are not presently available. However, it can be safely assumed that these risks are faced throughout the migration journey for women migrant workers in Africa, including from smugglers, traffickers, border officials and other state actors as well as other migrants.

Women migrants are also at heightened risk of exploitation, such as human trafficking or being forced into survival sex throughout their journeys. Gender is a primary factor in human trafficking, with 83% of victims of trafficking for sexual exploitation being women and girls.<sup>58</sup> Victims of trafficking are often misidentified as irregular migrants and denied appropriate support, detained, or deported as a result.<sup>59</sup> Ironically, laws that seek to prevent human trafficking by restricting the migration of women of a certain age or status are more likely to heighten the risk of being subjected to trafficking by forcing women into irregular and unsafe migration pathways and mechanisms, demonstrating the importance of nuanced and informed gender-responsive migration policies.

On the other hand, men migrant workers also face the risk of violence and exploitation during the journey and on arrival, though to a lesser extent than women, but face greater social disincentives to report it and to seek psycho-social as well as legal support. This leaves them in a precarious position, lacking the appropriate support systems to help them deal with the trauma of such experiences when they do occur.

The African Union Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)<sup>60</sup> highlights the importance of establishing and maintaining gender-responsive systems for effective search and rescue at sea, due to the narrowly-implemented understanding of distress that is often used by search and rescue operators, which may infringe on the rights of women migrants. Women migrants are also more at-risk during sea crossings due to lower rates of being able to swim and the fact that they often succumb to hypothermia sooner than men.<sup>61</sup>

Women are also more likely to be migrating with children, raising additional factors regarding the protection of children that must be taken into consideration. Integration and re-integration policies must consider the presence and wellbeing of the children, in addition to that of women.

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<sup>57</sup> UN Women, 'Explainer: How Migration is a Gender Equality Issue', (2020) (accessible [here](#)).

<sup>58</sup> *Ibid.*

<sup>59</sup> SDC and UN Women, 'Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration', (2019) (accessible [here](#)).

<sup>60</sup> African Union, 'The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)', (2018) at p. 25 (accessible [here](#)).

<sup>61</sup> SDC and UN Women, 'Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration', (2019) (accessible [here](#)).

Migrant workers from gender minorities are similarly at increased risk of exploitation and violence during their migration journeys.<sup>62</sup> For example, 83% of trafficking victims who are transgender or gender non-conforming are trafficked for sexual exploitation.<sup>63</sup>

Women migrant workers face these risks throughout the migration journey, but also on arrival in countries of destination. For instance, women tend to work in isolated environments such as domestic homes, which can increase their vulnerability to violence as well as impact their ability to seek help in cases of abuse. This point is dealt with in further detail under section 4.2.5 below in the context of the JLMP Strategic Framework.

### **2.3. Access to information**

Another prevalent issue affecting women migrant workers during their journeys is that of a lack of access to information. UN Women highlights the fact that women often lack access to gender-responsive information about safe and regular migration pathways.<sup>64</sup> For example, in a survey across 23 countries, 53% of migrant women indicated that they were not aware of migration risks such as sexual abuse, extortion, trafficking, accidents and drowning, during the journeys.

This is probably a consequence of a range of reasons, including that girls continue to suffer lower education rates as a result of early marriage and societal expectations, and that women also tend to be more socially and informationally isolated or to work in more isolated workplaces such as domestic homes.<sup>65</sup> In addition to thereby being at greater risk of violence and unsafe migration paths, this also may contribute to their having less information about the COVID-19 virus and protection measures due to barriers in language and exposure.<sup>66</sup>

It is notable that the GCM calls for the establishment of “accessible information points along relevant migration routes that can refer migrants to child-sensitive and gender-responsive support and counselling, offer opportunities to communicate with consular representatives of the country of origin, and make available relevant information, including on human rights and fundamental freedoms, appropriate protection and assistance, options and pathways for regular migration, and possibilities for return, in a language that the person concerned understands” as well as the provision of gender-responsive and accessible information and legal guidance for newly arrived migrants on their rights and obligations.<sup>67</sup>

This is certainly an area in which the JLMP can therefore play a leading role by providing accurate and accessible information for women migrant workers that can enable them to be better informed and prepared for the migration experience, and that can assist them to exercise their rights at all stages of the journey and on arrival, including within employment settings. Gender-responsive information campaigns could include, for example events and public campaigns informing migrant workers of their rights in countries of origin, transit, and destination, and well as where and how to seek redress, in addition to contributing to a more positive perception of

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<sup>62</sup> UN Women, ‘Explainer: How Migration is a Gender Equality Issue’, (2020) (accessible [here](#)).

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> JLMP, ‘Handbook – Gender Dimensions of Labour Migration’.

<sup>66</sup> *Ibid.*

<sup>67</sup> UN, ‘Global Compact for Safe, Orderly and Regular Migration’, (2018) at p. 11 (accessible [here](#)).

women migrants by dispelling misleading and negative narratives. It is crucial that information is conveyed in accessible languages throughout countries of origin, transit, and destination. Information can be circulated through the media, social media and in popular culture and may include strategies such as “airing women’s and girls’ voices and stories, portraying migrant women as actors rather than victims, and gender balance on editorial boards.”<sup>68</sup>

#### **2.4. Gendered effects for those who remain**

Finally, it is worth noting that migration also has gendered effects even for women who do not migrate themselves. For example, remittances from a husband who has migrated may be sent only to male relatives, thereby reinforcing gender hierarchies, and denying women who have remained at home agency and economic opportunities.<sup>69</sup> On the contrary, the migration of men may also positively affect gender roles as women who stay behind take on greater responsibility in the household and have increased decision making power.<sup>70</sup>

On the other hand, men left behind when their wives migrate may suffer from the effects of gender stereotypes that dictate the man should be the provider for his family, potentially undermining his sense of masculinity, creating tensions within the family, and subjecting men to social stigmatisation and/or discrimination for failing to fulfil those traditional roles. They may also struggle to adapt to new responsibilities within the home such as childcare.

#### **2.5. Gender-specific factors on arrival**

Given the significant overlap between Strategic Objective 2 of the JLMP Strategic Framework and the various gendered dynamics faced by migrant workers in countries of destination, these factors are dealt with specifically under section 4.2. below. Let it suffice to note here that labour markets in many, if not all, African countries remain significantly segregated by gender, with strong gender norms around the types of occupations that are filled by women and men. For example, while we have already noted that women are more likely to work in the care industry, including domestic work, childcare and healthcare, men are more likely to work in construction and mining.<sup>71</sup> There is also growing demand for migrant workers in the agricultural, hotel and restaurant services, education, and cleaning services industries that are attracting an increasing number of women migrant workers.<sup>72</sup> As will be discussed in further detail below, occupational segregation also has a strong impact on the degree of social protections afforded to migrant workers, and the risks of violence, exploitation, and abuse that they face.

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<sup>68</sup> SDC and UN Women, ‘Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration’, (2019) (accessible [here](#)).

<sup>69</sup> UNRISD at fn. 42 at p. 26.

<sup>70</sup> African Union, ‘The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)’, (2018) at p. 50 (accessible [here](#)).

<sup>71</sup> Das and Kotikula, ‘Gender-based Employment Segregation: Understanding Causes and Policy Interventions’, (2019) the World Bank (accessible [here](#)).

<sup>72</sup> ILO, ‘Women migrant workers’ labour market situation in West Africa’, (2020) (accessible [here](#)).

### **3. STANDARD ASSESSMENT FRAMEWORK IN THE PRIORITY COUNTRIES AND TARGET RECS**

Contextual factors play a significant role in determining the experiences of migrants across the gender spectrum. For example, gender norms vary widely, and some countries and regions have made more progress than others in integrating a gender perspective into relevant migration policies and laws. We, therefore, begin by applying the Standard Assessment Framework to each of the target countries and priority RECs to better understand the context and landscape as it pertains to gender and labour migration.

We have adopted a macro/ meso/ micro-level framing as a way to understand the context, challenges, and opportunities, of labour migration through a gender lens. This seeks to assist the JLMP as they work within these contexts to advance gender mainstreaming. We begin by providing a contextual overview of the country or REC focusing on migration flows, common forms of employment and the gender dynamics of labour migration in these contexts. In some instances, there is limited data and information available. Where this is the case, we have relied on existing sources to piece together a better understanding of the labour migration landscape in the respective country or REC. Thereafter, and at the macro level, we provide a high-level overview of the policies and laws that relate to labour migration, or labour and migration separately, where this is all that is currently available (as is often the case) and gender, non-discrimination, and empowerment. We then turn to the meso level where we highlight the key stakeholders and institutional processes. Then we provide context on the meta level of existing gender norms and on the micro-level socio-economic indicators from a gender perspective with an aim of highlighting, where possible, some of the lived realities of those who find themselves at the intersection of gender and labour migration.

#### **3.1. Cameroon**

##### **3.1.1. Country context through a gender and labour migration lens**

Cameroon, located in central and west Africa, is a lower-middle-income country, which shares its borders with several states including Nigeria to the northwest and southwest, Chad to the northeast, the Central African Republic to the east, the Republic of the Congo to the southeast, Gabon and Equatorial Guinea to the south.<sup>73</sup> Cameroon is ranked as ‘not free’ in terms of Freedom House’s rankings in relation to political rights and civil liberties.<sup>74</sup>

There is limited available data in relation to labour migration flows, the common forms of employment of migrant labourers, the key challenges they face, and the gender patterns of such migration. According to the ILO, there are four domestic data sources that to varying degrees engage with international labour migration statistics:<sup>75</sup> the General Population and Housing Census, which is carried out by the Central Bureau of Census and Population Studies; the Fourth Cameroonian Household Survey (ECAM4), the General Census of Enterprises, and the Survey on Employment and Labour in Enterprises, the latter two of which are carried out by the National

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<sup>73</sup> World Bank, ‘Cameroon’ (2021) (accessible [here](#)).

<sup>74</sup> Freedom House, ‘Cameroon’ (2021) (accessible [here](#)).

<sup>75</sup> ILO, ‘Cameroon’ (accessible [here](#)).

Institute of Statistics in Cameroon.<sup>76</sup> Unfortunately, these sources are not readily available and appear to be fairly outdated with the last sources having been published between 2005 and 2008. Further, it appears that “Cameroon is facing a shortage or virtual absence of data sources on international migration and its contribution to development.”<sup>77</sup> The sex-disaggregated databases at the national level also appear to be outdated or inaccessible, for example, the Gender Disaggregated Labour Database (GDLDB) has not been able to process data on Cameroon due to missing documentation or miscoded variables.<sup>78</sup> There are, however, a few sources, reports, and statistics that can be relied on to provide some insight into the gender dynamics of labour migration in Cameroon.

Over the past two decades, Cameroon’s migrant population has grown exponentially, from approximately 266 000 migrants in 1990, to 505 000 in 2019.<sup>79</sup> As of 2019, migrants form 2% of Cameroon’s population.<sup>80</sup> A 2020 report, focusing on the profile of migrants gathered at key transit areas in Cameroon, Chad, Mali, Niger, and Nigeria, found that Cameroon represented the top country of final intended destination for persons migrating during the pandemic.<sup>81</sup> This study further found that of the population interviewed, 32% of travellers from Cameroon were women and 68% were men.<sup>82</sup> The non-citizen working-age population in Cameroon comes largely from various countries in Asia and Nigeria, with migrant women of working-age mimicking that same pattern.<sup>83</sup>

From a more general labour perspective, Cameroon’s total labour force is estimated to be just under 11.5 million people,<sup>84</sup> and Cameroon has a labour force participation rate for women of 71,1% compared to 81,1% for men.<sup>85</sup> Notably, the rural labour sector is mainly driven by women who represent 71,6% in the informal agricultural sector, and in the Northwest, 72% of small retailers are women.<sup>86</sup> 70% of workers in the care sector are women and girls between the ages of 15 and 24, with only 6% having had professional training.<sup>87</sup> The World Bank’s vulnerable employment statistics indicate a 13% decrease in women’s employment over the past two decades, from 93.1% in 1991 to 80.83% in 2019.<sup>88</sup> The percentage of women in Cameroon’s

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<sup>76</sup> The Third General Population and Housing Census is presently not accessible through the Central Bureau of the Census and Population Studies website (accessible [here](#)). The Fourth Cameroonian Household Survey (ECAM4), the General Census of Enterprises, and the Survey on Employment and Labour in Enterprises were not readily available from the National Institute of Statistics in Cameroon (accessible [here](#)).

<sup>77</sup> ACP, ‘Shedding light on the South: Migrant profiles and the impact of migration on human development in Cameroon’ (2013) (accessible [here](#)).

<sup>78</sup> World Bank, ‘Gender Disaggregated Labor Database’ (2021) (accessible [here](#)).

<sup>79</sup> UNPD, ‘International Migrant Stock 2019: Country Profile - Cameroon’ (2019) (accessible [here](#)). It is however difficult to fully ascertain the status of migration in Cameroon as there is no systematic data collection and publication of migration data in the country. See further IOM Global Migration Data Analysis Centre (GMDAC), ‘Migration Data Portal: Republic of Cameroon’, (2020) (accessible [here](#)) (IOM/GMDAC, Cameroon).

<sup>80</sup> *Ibid.*

<sup>81</sup> IOM, ‘Migration & COVID-19 in West and Central Africa’ (2020) (accessible [here](#)).

<sup>82</sup> *Ibid.*

<sup>83</sup> ILO Statistics accessible [here](#).

<sup>84</sup> World Bank, ‘Labour force, total – Cameroon’ (2021) (accessible [here](#)).

<sup>85</sup> United Nations Development Programme, ‘Gender Inequality Index’ (2020) (accessible [here](#)).

<sup>86</sup> Gender Standby Capacity Project, ‘Data on gender equality in Cameroon’ at p. 6 (accessible [here](#)).

<sup>87</sup> Friedrich Ebert Stiftung, ‘Care workers must organize for their rights’ (2017) (accessible [here](#)).

<sup>88</sup> World Bank, ‘Vulnerable employment, female (% of female employment) (modelled ILO estimate) – Cameroon’ (2021) (accessible [here](#)).

labour force sits at 47.13%.<sup>89</sup> More recent studies on the impact of COVID-19 on employment and the labour market in Cameroon found that informal sector workers — who are mostly women and who account for more than 90% of those employed — are “most directly affected with health risks, lost income, all of which are reflected in a decline in consumption, investment and a deterioration in the country’s economic situation.”<sup>90</sup> However, all these labour related statistics do not speak specifically to labour migration.

The recently published third edition of the Report on Labour Migration Statistics provides useful insight into Cameroon’s labour migration context.<sup>91</sup> The employment-to-population ratio for Cameroon’s migrant population is 63.1%.<sup>92</sup> 50.5% of the total migrant population is made of women and girls, this is higher than the regional and international averages which sit at 47.5% and 47.9% respectively.<sup>93</sup> A closer look at labour migration through a gendered lens shows that there are notably fewer women migrant workers in Cameroon. Data from 2018 (published in 2021), records that 32.3% of migrant workers are women, and 67.7% are men.<sup>94</sup> It appears that Cameroon’s labour migration landscape is occasioned by several factors, including, but not limited to, its geographical positioning at the intersection of Central and West Africa, and the growth and expansion of the cocoa industry, prompting notable seasonal migration trends.<sup>95</sup> It appears that the cocoa industry is susceptible to seasonal migrants of different categories, including those in the agricultural sector, those who trade cocoa, and “seasonal sex workers, who leave the urban centres for cocoa-producing centres during the peak seasons of harvest with the aim of making high turnovers”.<sup>96</sup> Apart from this insight, there is limited available data on the key drivers of labour migration and the common forms of employment of labour migrants.

### 3.1.2. Labour migration and related gender policies and laws

Despite consistent migratory flows, the legal and policy framework in Cameroon appears to be fairly limited, with no formalised national labour migration policy.<sup>97</sup> However, and notwithstanding the lack of a national labour migration policy or framework, Cameroon’s international commitments and constitutional framework coupled with relevant domestic legislation and policies provide guidance on the country’s legal framework as it pertains to migration, employment, and gender.

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<sup>89</sup> World Bank, ‘Labour force, female (% of total labour force) – Cameroon’ (2021) (accessible [here](#)).

<sup>90</sup> ILO, ‘Cameroon - Rapid evaluation of the impact of COVID-19 on employment and the labour market in Cameroon’ (2020) (accessible [here](#)).

<sup>91</sup> AU, ‘Report on Labour Migration Statistics’ (3 ed, 2019) (2021) (accessible [here](#)).

<sup>92</sup> *Ibid* at p. 34.

<sup>93</sup> UNPD: Cameroon (above n 79).

<sup>94</sup> *Ibid* at p. 35.

<sup>95</sup> M Ndeh, ‘Seasonal migrants, poverty alleviation and contract sex in the cocoa producing centers in the Littoral quadrant of Cameroon: A diagnostic socio-anthropological study in the post-colonial era’ (2018) 3 *Brazilian Journal of African Studies* (accessible [here](#)).

<sup>96</sup> *Ibid*.

<sup>97</sup> IOM/GMDAC, Cameroon (above n 79).



The Constitution of Cameroon,<sup>98</sup> which provides for several fundamental rights of all persons, grants constitutional status to all international legal instruments ratified by Cameroon.<sup>99</sup> Cameroon is a state party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention Relating to the Status of Refugees, and is a signatory to, but has not ratified, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.<sup>100</sup> Cameroon has signed and ratified the African Charter on Human and Peoples' Rights, the Treaty Establishing the African Economic Community, the Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>101</sup> Cameroon has ratified 51 ILO conventions, including all eight of the fundamental conventions, as well as the Migration for Employment Convention, and the Migrant Workers (Supplementary Provisions) Convention.<sup>102</sup> However, Cameroon has not ratified 50 ILO conventions, including the Domestic Workers Convention, Private Employment Agencies Convention, and the Violence and Harassment Convention.<sup>103</sup>

In addition, Cameroon has a few decrees relevant for present purposes:

- **Decree 81-02 of 1981:** Cameroon's Civil Status Registration decree, provides that a husband may object to his wife's exercise of trade different from him in the interest of their marriage or children.<sup>104</sup> Equality Now notes with concern that this discriminatory law remains in force.<sup>105</sup>
- **Decree 92/007 of 1992:** This decree is labour-related and is commonly referred to as the Labour Code. It provides for certain conditions for the employment of foreign workers.<sup>106</sup> For example, a contract of employment concerning a foreign worker must be endorsed by the Minister in charge of labour.<sup>107</sup> The application for endorsement must be made by the employer. If the endorsement is refused, the contract is null and void. If no decision is made by the Minister within two months of the receipt of an application, the application is considered endorsed.<sup>108</sup> In its 2017 submission, the UNHCR recommended that the government revise the Labour Code and ensure the principle of equal opportunity and equal treatment in employment is realised without distinction as to race, colour, descent,

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<sup>98</sup> Constitution of the Republic of Cameroon, 1972, as amended to 2008 (accessible [here](#)).

<sup>99</sup> *Ibid* at article 45. See also United Nations General Assembly, 'National report submitted in accordance with paragraph 15A of the Annex to Human Rights Council Resolution 5/1: Cameroon' (2008) (accessible [here](#)).

<sup>100</sup> See UN, 'Status of Ratification: Interactive Dashboard' (accessible [here](#)).

<sup>101</sup> AU, 'Treaties, Conventions Signed by Cameroon' (accessible [here](#)).

<sup>102</sup> ILO, 'Ratifications for Cameroon' (accessible [here](#)).

<sup>103</sup> ILO, 'Up-to-date Conventions and Protocols not ratified by Cameroon' (accessible [here](#)).

<sup>104</sup> WageIndicator Foundation, 'Cameroon: Decent Work Check 2021' (2021) (accessible [here](#)) at p. 35.

<sup>105</sup> Equality Now, 'Cameroon – The Civil Status Registration (Ordinance No. 81-02 Of 29 June 1981)' (2021) (accessible [here](#)).

<sup>106</sup> Decree 92/007 of 1992 on the labour code (Labour Code) (accessible [here](#)).

<sup>107</sup> *Ibid* at article 27(2).

<sup>108</sup> WageIndicator Foundation, 'Cameroon: Decent Work Check 2021' (2021) (accessible [here](#)).

or national or ethnic origin.<sup>109</sup> From a gender perspective, the Labour Code includes a chapter on the employment of women, young persons, and children. It provides that the Minister specify the types of tasks which women and pregnant women respectively shall not perform.<sup>110</sup> In addition, it provides that a woman or child shall not be kept on any job which has been so found to be beyond their strength and shall be transferred to more suitable work.<sup>111</sup>

- **Decree 97/012 of 1997:** This decree governs Immigration in Cameroon. The IOM explains that this decree primarily focuses on regulations concerning migratory flows, for example, conditions of exit and expulsion as well as guarantees of repatriation.<sup>112</sup> It further provides for the various permits to which foreigners are entitled.
- **Decree 2008/052 of 2008:** This decree provides for the conditions on entry, stay, and exit for foreign nationals in Cameroon.<sup>113</sup> It differentiates between short and longer-term stays in the country. Long-stay foreign nationals are defined to include contract workers, independent workers, and long-term trainees, and are required to have a long-stay visa.<sup>114</sup>
- **Decree No 2012/558 of 2012:** Through this decree, the Ministry of Labour and Social Security (*Ministère du Travail et de la Sécurité Sociale*, MINTSS) ensures the application of the Labour Code and international labour conventions to which Cameroon is a party.<sup>115</sup>
- **Decree 2016/007 of 2016:** This decree, also known as the Penal Code, promotes non-discrimination in some ways.<sup>116</sup> Section 242 provides that whoever excludes another from any place open to the public or any employment, because of race, religion, sex, or health status, shall be punished. It further provides for the punishment of sexual offences, including rape, sexual harassment, and threats.<sup>117</sup> Of concern, the Penal Code criminalises homosexuality,<sup>118</sup> and “immoral earnings” through sex work.<sup>119</sup>
- **Decree No. 2017/383 of 2017:** This decree establishes the Ministry of Social Affairs (MINAS) as the ministry responsible for the development and implementation of government policy insofar as it seeks to provide assistance and protection to socially vulnerable persons.<sup>120</sup> MINAS works with officials stationed at the border to ensure that as migrants are welcomed into Cameroon, they receive appropriate protection and

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<sup>109</sup> UNHRC, ‘Submission by the UNHRC for the Office of the High Commissioner for Human Rights’ Compilation Report - Universal Periodic Review: Cameroon’ (2017) (accessible [here](#)).

<sup>110</sup> Labour Code (above n 106) at section 83.

<sup>111</sup> *Ibid* at section 87.

<sup>112</sup> IOM/GMDAC, Cameroon (above n 79) at p. 14.

<sup>113</sup> Decree 2008/052 of 2008 modifying and supplementing certain provisions of Decree N ° 2007/255 of September 04, 2007 fixing the modalities of application of Law 97/012 of January 10 1997 relating to the conditions of entry, stay and exit of foreigners in Cameroon (accessible [here](#)).

<sup>114</sup> *Ibid* at article 12.

<sup>115</sup> Decree No. 2012/558 of 2021 (accessible [here](#)). Please note this is presently not available in English. See further IOM/GMDAC, Cameroon (above n 79) at p. 15.

<sup>116</sup> Decree 2016/007 of 2016, (accessible [here](#)).

<sup>117</sup> *Ibid* at chapter B.

<sup>118</sup> *Ibid* Section 3471-1.

<sup>119</sup> *Ibid* at section 343.

<sup>120</sup> Decree No. 2017/383 of 2017 (accessible [here](#)). Please note this is presently not available in English.

psycho-social support.<sup>121</sup> According to IOM, this assistance should be available to all migrants regardless of gender, sex or nationality.<sup>122</sup> In addition, MINAS appears to be responsible for producing social survey reports that facilitate training for migrant workers.<sup>123</sup> Further through this decree establishes the creation of the Department of National Solidarity and Social Development (*Direction de la Solidarité Nationale et du Développement Social*). This body confirms the role of MINAS in terms of migration issues and internally displaced persons.<sup>124</sup>

From a policy perspective, Cameroon has made some inroads in relation to gender equality and non-discrimination. It appears there are policies from the mid to late-1990s that sought to encourage the empowerment of women; these include the 1997 declaration on the Integration of Women in Development, the Multi-sectorial Plan of Action on Women and Development, and the National Plan of Action on the Integration of Women in Development.<sup>125</sup> The National Population Policy Declaration of 2002 focused on universal primary education, improved literacy rates, and the reduction of economic and social gender disparities.<sup>126</sup> The 2011-2020 National Gender Policy promotes equal rights and participation of women and men in development.<sup>127</sup> The Growth and Employment Strategy Paper (GESP) – 2010/2020 lists Cameroon’s commitment to incorporating gender approaches into its policies and strategies and having gender-sensitive budgets across various sectors.<sup>128</sup> It is unclear at this stage if these results have been met.

### 3.1.3. Key stakeholder and institutional processes on labour migration

Institutionally, while several bodies play a role in migration, labour, and gender matters, there appears to be no central institutional body or process that directly deals with labour migration through a gender lens. MINAS engages with some of the intersections between gender and migration. As noted above, MINAS is responsible for providing assistance and protection to socially vulnerable persons.<sup>129</sup> This includes ensuring the “protection and psychosocial care for all migrants regardless of gender, sex or nationality”.<sup>130</sup> In addition, MINAS appears to be responsible for producing social survey reports that facilitate training for migrant workers.<sup>131</sup> The Ministry of Women Empowerment and the Family is responsible for studying and submitting to Government conditions to ease the employment of women in all areas of activity.<sup>132</sup>

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<sup>121</sup> IOM, ‘Migration Governance Indicators: Republic of Cameroon – Profile 2020’ (2020) at p. 14 (accessible [here](#)).

<sup>122</sup> *Ibid.*

<sup>123</sup> *Ibid.*

<sup>124</sup>

IOM/GMDAC, Cameroon above n 79.

<sup>125</sup> These are not readily available. For reference to these policies see NEPAD Planning and Coordinating Agency, ‘African Gender, Climate Change and Agriculture Support Programme (GCCASP): Cameroon National Consultative Report’ (2012) (accessible [here](#)).

<sup>126</sup> JICA, ‘2015 Country Report of Gender Profile (Cameroon)’ (2015) at p 20 (accessible [here](#)).

<sup>127</sup> *Ibid.*

<sup>128</sup> Republic of Cameroon, ‘Growth and Employment Strategy Paper (GESP) – 2010/2020’ (accessible [here](#)). See also IOM/GMDAC, Cameroon, (above n 79) at p. 19.

<sup>129</sup> Decree No. 2017/383 of 2017 (accessible [here](#)). Please note this is presently not available in English.

<sup>130</sup> also, IOM/GMDAC, Cameroon, (above n 79) at p. 14.

<sup>131</sup> *Ibid.*

<sup>132</sup> Republic of Cameroon, ‘Minister of Women’s Empowerment and the Family’ (accessible [here](#)).

The General Delegation for National Security is primarily tasked with ensuring peace and enforcing the laws and regulations on entry, stay, and exit of foreign nationals in Cameroon.<sup>133</sup> The Ministry of Foreign Affairs is responsible for the administrative procedures for foreign nationals and refugees.<sup>134</sup> The 2008 Decree discussed above gives guidance on the practical requirements of entry into the country. A valid passport, contract of employment, proof of travel and proof of marital links are some of the requirements for a long-stay visa.<sup>135</sup> The 2008 Decree provides for residential and refugee documentation.<sup>136</sup> It further includes provisions on familial accompaniment and reunions,<sup>137</sup> illegal immigration and expulsion.<sup>138</sup>

In relation to employment, as noted above, the Minister in charge of labour must endorse the contract of employment concerning a worker of foreign nationality.<sup>139</sup> The Ministry of Labour and Social Security is tasked with supervising the implementation of laws that place restrictions on the access of foreigners to certain jobs. This Ministry is further tasked with ensuring that the rights of workers, whether national or migrant, are recognised and protected in accordance with international human rights law.<sup>140</sup> The National Labour Advisory Board, established in terms of the Labour Code, is tasked with examining matters relating to, among other things, working conditions, employment, migration, and the improvement of the material conditions of workers and to make recommendations and proposals on the legal frameworks pertaining to these issues.<sup>141</sup> The Advisory Board has the discretion to “limit the employment of workers of foreign nationality in certain occupations or at certain levels of professional qualifications.”<sup>142</sup>

The Ministry of Women Empowerment and the Family is responsible for the preparation and implementation of government measures related to the promotion and respect of women’s rights and the protection of the family. In addition, this Ministry is in charge of, among other things, ensuring the elimination of all discrimination against women and ensuring increased guarantees of gender equality in all fields of activity. In addition to this Ministry, there is an Inter-ministerial Committee of gender which is headed by the Prime Minister. This Committee is responsible for coordinating and supervising the implementation of the National Gender Policy.<sup>143</sup> Notably, another Inter-Ministerial Committee on Gender Statistics recently adopted key recommendations, including focusing on the disaggregation of gender data, supporting the improvement of the quality of the statistical activity in Cameroon, and advocating for the budgeting for gender statistics in all administrations.<sup>144</sup>

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<sup>133</sup> The Presidency of the Republic of Cameroon, ‘General Delegation for National Security’ (accessible [here](#)). See also UNOCHA Dashboard above n 63.

<sup>134</sup> Republic of Cameroon, ‘The Ministry of Foreign Relations’ (accessible [here](#)).

<sup>135</sup> *Ibid* at article 30.

<sup>136</sup> *Ibid* at articles 35-40.

<sup>137</sup> *Ibid* at articles 41-47.

<sup>138</sup> *Ibid* at articles 58-63.

<sup>139</sup> See Labour Code (above n 106) at section 27(2).

<sup>140</sup> IOM, ‘Migration Governance Indicators: Republic of Cameroon – Profile 2020’ (2020) at p. 15 (accessible [here](#)).

<sup>141</sup> See Labour Code (above n 106) at section 117.

<sup>142</sup> *Ibid* at section 113.

<sup>143</sup> JICA (above n 126).

<sup>144</sup> UN Women, ‘The Cameroon Inter-Ministerial Committee on Gender Statistics organized its first session of the year’ (2020) (accessible [here](#)).

### 3.1.4. Gender norms and socio-economic context

There is limited data and information on gender norms and the socio-cultural context as they relate to labour migration. However, the prevailing gender norms in Cameroon give a sense of gender dynamics that are likely to play out in the context of labour migration.

Cameroon ranks 141<sup>st</sup> on the UNDP Gender Inequality Index, relatively higher than its overall Human Development Index rank of 153.<sup>145</sup> This score is lowered by low female representation in Parliament, which presently sits at 29,3%. The World Economic Forum ranks Cameroon 66<sup>th</sup> out of 153 countries in terms of economic participation and opportunity, 70<sup>th</sup> for political empowerment, 88<sup>th</sup> for health and survival, and 136<sup>th</sup> in terms of education.<sup>146</sup> The low score for education aligns with the prevailing position that boys are afforded more opportunities and have greater access to education. For example, in 2020, approximately 262 000 girls were out of school compared to 84 000 boys.<sup>147</sup> The differential educational opportunities are informed by various factors including traditional perceptions of gender roles, high rates of youth pregnancy, and child marriage.<sup>148</sup> In terms of health, sexual and reproductive health care and access to health care services appear to be a challenge for girls and women.<sup>149</sup> Food insecurity, a lack of safe spaces to access water, hygiene and sanitation contribute to the daily challenges faced by women and girls in Cameroon.<sup>150</sup>

Gender discrimination, prevailing inequality, and discernible socially constructed gender roles are contributing barriers to human development in Cameroon.<sup>151</sup> Women are primarily tasked with reproductive activities, traditional caregiver roles, and unpaid domestic responsibilities within the context of a family unit.<sup>152</sup> The reproductive and domestic roles of women are further evidenced by the high rates of child, early and forced marriage. UN Women estimates that nearly 30% of women between the ages of 20 and 24 were married before the age of 18.<sup>153</sup> This harmful practice negatively affects the socio-economic status, sexual and reproductive health, and psychological wellbeing of young girls and women.<sup>154</sup>

A 2015 study revealed some of the underlying perceptions attached to the role of girls and women. Notably, 89% of respondents were of the view that girls should not have their first menstruation under their parents' roofs but under their husbands.' In addition, participants expressed the view that marriage is a girl's 'life purpose,' resulting in young single women being viewed negatively by society, and thought to be infertile, a sex worker, or a witch.<sup>155</sup> These gender norms, expectations, and harmful practices in many ways limit access to education and income-generating activities which in turn reduces the ability of women to access and control

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<sup>145</sup> UN Women, 'Global Database on Violence Against Women: Cameroon' (2016) (accessible [here](#)).

<sup>146</sup> World Economic Forum, 'Global Gender Gap Report 2020' (2020) (accessible [here](#)).

<sup>147</sup> UNESCO, 'Cameroon: Education and Literacy' (2020) (accessible [here](#)).

<sup>148</sup> The Borgen Project, 'Girls Education in Cameroon' (accessible [here](#))

<sup>149</sup> Gender Standby Capacity Project, 'Data on gender equality in Cameroon' at p. 5 (accessible [here](#)).

<sup>150</sup> *Ibid* at p. 6-7.

<sup>151</sup> Gender Standby Capacity Project, 'Data on gender equality in Cameroon' (accessible [here](#)).

<sup>152</sup> *Ibid*.

<sup>153</sup> UN Women, 'Women Count: Cameroon' (2020) (accessible [here](#)).

<sup>154</sup> Institut Supérieur du Sahel at the University of Maroua, 'Child, Early, and Forced Marriage in Cameroon: Research Findings' (2015) (accessible [here](#)).

<sup>155</sup> *Ibid*.

resources leaving women economically vulnerable. Further, and while the Constitution provides equal rights to men and women, in reality, gender inequality takes precedence. For example, and despite legal frameworks aimed at ensuring equality, courts often disadvantage women in the context of divorce proceedings.<sup>156</sup> This may make it difficult for women to leave violent or toxic spaces and find employment.

The harmful gender dynamics are further illustrated by the prevalence of violence against women in Cameroon. It is estimated that 51% of women will experience physical and/or sexual intimate partner violence.<sup>157</sup> More recent reports suggest that cases of domestic violence are increasing, with perpetrators rarely being prosecuted.<sup>158</sup> In addition to intimate partner violence and domestic violence, women in Cameroon face the persistent threat of gender-based violence in the context of the ongoing conflict in the country. The growing trends of militarization and militarism have led to an increase in violence against women by armed forces.<sup>159</sup>

Further, there is systemic discrimination against gender and sexual minorities. As noted, same-sex relationships are criminalised, with people frequently being prosecuted on suspicion of their sexual orientation.<sup>160</sup> Gender and sexual minorities face constant harassment and the threat of arrest.<sup>161</sup> Sex workers in Cameroon appear to face similar challenges. The criminalisation of sex work contributes towards stigma, discrimination, harassment, and sexual, physical, emotional, and economic violence against sex workers.<sup>162</sup>

The prevailing gender norms can also have a negative impact on men. The expectation of masculinity and the masculine ideals of supporting and heading of household places men under increasing pressure.<sup>163</sup> Research suggests that “young men and men are more likely to face arbitrary arrests, beatings, torture and extrajudicial executions. They are also at greater risk of being targeted by armed attacks and are more at risk of injury or death directly related to the conflict.”<sup>164</sup> Further, “sexual violence by armed groups or other men is a reality that is sometimes faced by boys and men.” In June 2021, 11% of GBV cases reported were cases of violence against boys and men.<sup>165</sup>

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<sup>156</sup> Freedom House (above n 74).

<sup>157</sup> UN Women, ‘Global Database on Violence Against Women: Cameroon’ (2016) (accessible [here](#)).

<sup>158</sup> Freedom House, ‘Cameroon’ (2021) (accessible [here](#)).

<sup>159</sup> Sexual Violence Research Initiative, ‘Violence against women in Cameroon: An unchecked phenomenon’ (2020) (accessible [here](#)).

<sup>160</sup> Freedom House (above n 74).

<sup>161</sup> Human Rights Watch, ‘Cameroon: Events of 2020’ (2020) (accessible [here](#)).

<sup>162</sup> Global Network of Sex Work Projects, ‘CAMEF: Cameroon’ (accessible [here](#)). See also Atabong, ‘Cameroon’s sex workers seek a digital solution’ (2021) *New Frame* (accessible [here](#)).

<sup>163</sup> Gender Standby Capacity Project (above n 149) at p. 2.

<sup>164</sup> *Ibid* at p. 8.

<sup>165</sup> *Ibid* at p. 9.

## 3.2. Cote d'Ivoire

### 3.2.1. Country context through a gender and labour migration lens

Côte d'Ivoire, in West Africa, is bordered by Mali and Burkina Faso in the north, Ghana, in the east, Gulf of Guinea, the southwest, and by Liberia and Guinea in the west. Despite having the largest economy in the West African Economic and Monetary Union — largely due to its position as the world's top exporter of cocoa and raw cashew nuts, a net exporter of oil, and a significant manufacturing sector — Côte d'Ivoire ranks poorly in terms of civil and political freedoms with concerns around gender equality and inclusion.<sup>166</sup> For present purposes, there is some available data in relation to labour migration flows, the common forms of employment of migrant labourers, and the gender patterns of such migration in Côte d'Ivoire.

Côte d'Ivoire has an interesting history of migration, having been one of the “first immigration countries of West Africa,” and the primary destination for migrant labourers in the region.<sup>167</sup> However, civil violence and conflict, as well as fluctuations in the cocoa bean industry, have contributed to Côte d'Ivoire becoming a less appealing destination. Notwithstanding these challenges, Côte d'Ivoire “remains an important country of destination, and one of the main countries of residence for ECOWAS Member States nationals.”<sup>168</sup> This is evidenced by its ranking as the country to host the most migrants in Western Africa.<sup>169</sup> This ranking was informed by the 2,5 million migrants said to be in Côte d'Ivoire during mid-2020, which equates to 9,7% of the country's population and 34% of the total number of migrants hosted in West Africa.<sup>170</sup> This marks an increase from 2015 when 2,1 million international migrants were living in the country.<sup>171</sup>

Interestingly, in Côte d'Ivoire, immigrants have higher labour force participation rates than native-born workers and unemployment rates that are roughly half of those of native-born workers.<sup>172</sup> It is therefore unsurprising that Côte d'Ivoire has become dependent on a migrant workforce — particularly migrant labours from neighbouring Burkina Faso.<sup>173</sup> Mali, Guinea, Ghana and Benin are also common countries of origin for migrant labourers.<sup>174</sup> There has been a developing emigration trend among young Ivorians. The IOM records that Côte d'Ivoire is ranked among the top five countries of residence for migrants who have reached the borders of the South of Europe.<sup>175</sup> In terms of common forms of employment general trends suggest that migrant

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<sup>166</sup> World Bank, 'Côte d'Ivoire' (2021) (accessible [here](#)), and Freedom House, 'Côte d'Ivoire' (2021) (accessible [here](#)).

<sup>167</sup> See IOM, 'Côte d'Ivoire', (accessible [here](#)) and Maastricht Graduate School of Governance, 'Côte d'Ivoire: Migration Profile' (2017) (accessible [here](#)) at p. 4 (MGSOG).

<sup>168</sup> United Nations, 'A survey on Migration Policies in West Africa' (2015) at p. 132 (accessible [here](#) and [here](#)) (“UN Survey on Migration”).

<sup>169</sup> Migration Data Portal, 'Migration Data in Western Africa' (2020) (accessible [here](#)).

<sup>170</sup> *Ibid.*

<sup>171</sup> MGSOG (above n 167) at p. 4..

<sup>172</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 157 (accessible [here](#)).

<sup>173</sup> MGSOG (above n 171).

<sup>174</sup> United Nations survey on Migration Policies in West Africa above n 173 at p. 133.

<sup>175</sup> IOM, Côte d'Ivoire (above n 167).

labourers are largely participants in the informal sector, are involved in rural, agrarian, and low-skilled labour, or participate in herding and fishing, or industry and trade.<sup>176</sup>

From a gender perspective, 44.6% of international migrants in Côte d'Ivoire are women.<sup>177</sup> Moreover, research suggests that labour migration flows are gendered. For example, some female Ghanaian migrants in Côte d'Ivoire engage in trading and sex work. These sectors are said to be “readily accessible to female migrants compared with the fishing and farm labour available to male migrants”.<sup>178</sup> Liberian migrant labour patterns show that men are involved in work on cocoa farms and hew wood, whereas migrant women sell wood, and engage in sex work.<sup>179</sup> It further appears that the distance travelled by migrant workers is influenced by gender. Ghanaian women migrants in Côte d'Ivoire are women who tend to move over shorter distances. This is partly due to geographical proximity and the similar socio-cultural contexts of Ghana and Côte d'Ivoire. In some instances, this enables women to relocate without their husbands.<sup>180</sup> It further appears that the informal retail sector “is one of the principal sources of empowerment for women in general” regardless of migration status.<sup>181</sup>

### 3.2.2. Labour migration and related gender policies and laws

At this stage, Côte d'Ivoire does not have a comprehensive labour migration framework. However, it appears that there are intentions to incorporate labour migration into the national development plans which may include the creation of a national migration policy and a National Migration Office.<sup>182</sup>

Internationally, Côte d'Ivoire has signed the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities.<sup>183</sup> Côte d'Ivoire has signed and ratified the African Charter on Human and People's Rights and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa<sup>184</sup> Further, Côte d'Ivoire has ratified 41 ILO conventions, including all 8 of the fundamental conventions, which are in force.<sup>185</sup> However, Côte d'Ivoire has not ratified the Migrant Workers (Supplementary Provisions) Convention, the Domestic Workers Convention, or the Violence and Harassment Convention.<sup>186</sup>

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<sup>176</sup> United Nations survey on Migration Policies in West Africa above n 173 at 133. See also International Centre for Migration Policy Development (ICMPD), 'Côte d'Ivoire Case Study: Côte d'Ivoire at a Crossroads – Socio-economic Development Implications of Crisis-induced Returns to Burkina Faso, Ghana and Liberia' (2017) (accessible [here](#)).

<sup>177</sup> UNPD, 'International Migrant Stock 2019: Country Profile - Côte d'Ivoire' (2019) (accessible [here](#)).

<sup>178</sup> ICMPD above n 176 at p 13.

<sup>179</sup> *Ibid* at p 14.

<sup>180</sup> *Ibid* at p 11.

<sup>181</sup> Work and Opportunities for Women, 'Women's Economic Empowerment in Côte d'Ivoire' (2020) (accessible [here](#)).

<sup>182</sup> MGSOG (above n 171) at 16.

<sup>183</sup> See UN, 'Status of Ratification: Interactive Dashboard' (accessible [here](#)).

<sup>184</sup> AU, OAU/AU Treaties, Conventions, Protocols & Charters' (accessible [here](#)).

<sup>185</sup> MGSOG above n 171 at p. 15. See also ILO, 'Ratifications for Côte d'Ivoire' (accessible [here](#)).

<sup>186</sup> ILO, 'Up-to-date Conventions and Protocols not ratified by Côte d'Ivoire' (accessible [here](#)).



At a domestic level, Côte d'Ivoire lacks a comprehensive national labour migration framework or policy. The Constitution provides for issues pertaining to gender equality and labour,<sup>187</sup> for example, that the State and public communities must ensure the promotion, development, and protection of women, and take the necessary measures to eliminate all forms of violence against women and girls.<sup>188</sup> The Constitution further provides that the State must work to promote equality between men and women in the labour market and encourage the promotion of women to decision-making positions in public institutions and administrations as well as at the enterprise level.<sup>189</sup> Notably, the Constitution does not include nationality or origin in its labour and non-discrimination article, which provides that everyone has the right to choose their profession or employment freely, and everyone has equal access to public or private employment, according to qualities and skills. It is prohibited to discriminate in respect of access to employment or in the exercise thereof, based on sex, ethnicity or political, religious, or philosophical opinions.<sup>190</sup> Apart from the Constitutional protection — or lack thereof — Côte d'Ivoire's current framework consists of a patchwork of laws that relate to migration,<sup>191</sup> labour, and gender with occasional overlaps.

- **Law 90-437 of 1990:** This provides for the entry and stay of foreigners in Côte d'Ivoire.<sup>192</sup> This law further specifies the documents with which the foreigner must be provided to enter Ivorian territory. It appears that spouses and children coming to join are exempt from the production of certain documents. Foreign nationals from different countries may have access to different permit options, for example, ECOWAS member states are eligible for a one-year unique stay permit.
- **Law 91-63 of 1991:** This specifies that foreigners stay and move freely throughout the country within the limits and conditions set by law and must be able to produce documentation proving their status in the country if requested from the relevant authorities.<sup>193</sup>
- **Law 92-89 of 1992:** This law deals with, among other things, that foreign workers can only be recruited through employment offices after authorisation from the minister responsible for employment or labour.<sup>194</sup> Further, the nationality of job seekers must be included in the lists of job applications sent to employment offices.
- **Act to Establish the Labour Code, Act No. 95/15 of 1995:** The Labour Code views a worker as every person regardless of sex, race, or nationality who engages in professional activity to receive remuneration.<sup>195</sup> This definition appears to cut across issues relating to

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<sup>187</sup> Côte d'Ivoire's Constitution of 2016 (accessible [here](#)).

<sup>188</sup> *Ibid* at article 35.

<sup>189</sup> *Ibid* at article 36.

<sup>190</sup> *Ibid* article 14.

<sup>191</sup> See tables of statutes in MGSOG above n 171 at p. 16-17 and UN Survey on Migration above n 168 at p. 138 -139. See further ILO, 'Côte d'Ivoire – Migrant workers' (accessible [here](#)).

<sup>192</sup> Law No 90-437 of 1990 relating to the entry and stay of foreigners in Côte d'Ivoire (accessible [here](#)). Presently not available in English.

<sup>193</sup> Law No 91-63 of 1991 (accessible [here](#)). Presently not available in English.

<sup>194</sup> Unable to access this law, ILO's explanation of the law is accessible [here](#).

<sup>195</sup> Unable to access this Act. The description of the Act is based on secondary sources listed above n 191.

working hours, maternity leave, and minimum wages.<sup>196</sup> Further, the code promotes the principle of non-discrimination based on gender in the context of hiring – however, there is “no mandate on equal pay for work of equal value for men and women”.<sup>197</sup>

- **Law 2004-303 of 2004:** This law amends Law No. 2002-03 of 2002 and provides for the identification of persons and stay of foreigners in Côte d’Ivoire.<sup>198</sup> It deals with requirements for foreign nationals to enter and stay in the country and further addresses instances where foreign nationals are undocumented. In such instances, undocumented foreign nationals may face imprisonment and deportation.

There have been notable efforts by the State to address discrimination and violence against women, as recognised by the United Nations Committee on the Elimination of Discrimination against Women.<sup>199</sup> UN Women records that “50% of legal frameworks that promote, enforce, and monitor gender equality, with a focus on violence against women, are in place.”<sup>200</sup>

According to the Minister of Women’s Affairs, Family and Children of Côte d’Ivoire’s report to the Committee on the Elimination of Discrimination against Women:

Côte d’Ivoire had undertaken major legal and institutional reforms since it had emerged from the post-electoral crisis in 2011. It had adopted in 2013 the law on marriage, which abandoned the concept of the head of the family and instituted the principle of joint management of the family, and the national strategy to combat trafficking in persons. In 2014, it had put in place the National Gender Observatory and the national strategy against gender-based violence; and in 2015, it had adopted the law on the employment of persons with disabilities.<sup>201</sup>

Further, and in 2019, Côte d’Ivoire introduced a Bill that seeks to substantially amend the country’s marriage law, giving women the same rights as their husbands over marital property.<sup>202</sup> The Bill was passed in 2020, establishing co-ownership of marital property.<sup>203</sup> This act, however, bans same-sex marriage.<sup>204</sup> Additionally, “Côte d’Ivoire’s legal framework protects from sexual harassment, including in the workplace, and provides criminal penalties.”<sup>205</sup> However, research suggests that “there is no action plan addressing sexual harassment, the law is reportedly poorly enforced, and sexual harassment is widespread and generally tolerated. There is no specific law addressing domestic violence.”<sup>206</sup>

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<sup>196</sup> ILO, ‘TRAVAIL legal database’ (accessible [here](#))

<sup>197</sup> Work and Opportunities for Women (above n 181).

<sup>198</sup> Unable to access this Law at this stage. The description of the law is based on secondary sources listed above n 191.

<sup>199</sup> Committee on the Elimination of Discrimination against Women, ‘Fourth periodic report submitted by Côte d’Ivoire under article 18 of the Convention’ (2018) (accessible [here](#)).

<sup>200</sup> UN Women, ‘Côte d’Ivoire’ (2020) (accessible [here](#)).

<sup>201</sup> Committee on the Elimination of Discrimination against Women reviews the situation of women in Côte d’Ivoire (2019) (accessible [here](#)).

<sup>202</sup> Human Rights Watch ‘Côte d’Ivoire Marriage Reform a Step for Women: Law Could Spur Change Throughout Africa’ (2019) (accessible [here](#)).

<sup>203</sup> Human Rights Watch, ‘Côte d’Ivoire: events of 2019’ (2020) (accessible [here](#)).

<sup>204</sup> Freedom House above n 166.

<sup>205</sup> Work and Opportunities for Women (above n 181).

<sup>206</sup> *Ibid.*

Other legislative developments also appear to be a concern from a gender quality perspective and signal concerns for women’s safety. According to Human Rights Watch, Côte d’Ivoire’s new Code of Criminal Procedure “creates a presumption of consent to sex between married couples, which could prevent victims of marital rape from pursuing successful prosecutions” and criminalises abortion.<sup>207</sup> Freedom House records that the new code contains references to “unnatural acts” and “moral sensitivity” which may be used to prosecute the same sex activity.<sup>208</sup> It is not clear if the new code addresses sex work, but the Penal Code of 1981 makes it illegal to solicit for the purposes of sex work in a public place.<sup>209</sup>

### 3.2.3. Key stakeholders and institutional processes on labour migration

There are challenges in accessing reliable and up to date information about key ministries and stakeholders in Côte d’Ivoire. Sources are either non-existent, outdated, inaccessible or contradictory. However, it appears there are a few key portfolios that address issues relating to migration, labour, and gender.

Sources from 2019 suggest that the Ministry of Territorial Administration and Decentralization and the Ministry of Security and Social Protection are primarily responsible for migration-related matters.<sup>210</sup> However, it appears that there were some structural changes to various ministries in 2020, with a new Ministry of Foreign Affairs, African Integration and the Diaspora being formed.<sup>211</sup> It is unclear at this stage what the key roles and objects of this ministry are.

These changes also saw the formation of the Ministry of Women, the Family, and the Child.<sup>212</sup> The National Committee for the Fight against Violence against Women and Children (CNLVFE) falls under the auspices of this Ministry and is committed to combating all forms of violence against vulnerable populations.<sup>213</sup> The National Fund for Women and Development Innovative Management Project also falls within this Ministry and seeks to among other things, assist the most disadvantaged women to develop initiatives in carrying out income-generating activities.<sup>214</sup>

The Ministry of Employment and Social Protection oversees labour related matters, as well as key social protections. The Directorate of Labour Regulation is responsible for, among other things, participating in the development of labour regulations, following international labour relations, ensuring the monitoring and application of international labour standards.<sup>215</sup> Department of

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<sup>207</sup> Human Rights Watch, ‘Côte d’Ivoire: events of 2019’ (2020) (accessible [here](#)). The new Code of Criminal Procedure is presently unavailable.

<sup>208</sup> Freedom House (above n 166).

<sup>209</sup> Article 335 and 338 Penal Code 1981-640 of 1981 (accessible [here](#)).

<sup>210</sup> UN and IOM, ‘Migration Governance Indicators: Republic Côte d’Ivoire – Profile 2019’ (2019) at p. 14 (accessible [here](#)).

<sup>211</sup> Official Portal of the Government of Côte d’Ivoire, ‘New Government: A Team of 37 Ministers and Secretaries of State Formed’ (2021) (accessible [here](#)). See also Communiqué of the President of the Republic (accessible [here](#)).

<sup>212</sup> *Ibid.*

<sup>213</sup> Ministère de la Femme, de la Famille et de l’Enfant, ‘National Committee for the Fight against Violence against Women and Children (CNLVFE)’ (accessible [here](#)).

<sup>214</sup> Ministère de la Femme, de la Famille et de l’Enfant, “National Fund” Women and Development” Innovative Management Project (PGNFNFD), (accessible [here](#)).

<sup>215</sup> Ministère de l’Emploi et de la Protection Sociale, ‘Directorate of Labour Regulation’ (accessible [here](#)).

Social Action also falls within this Ministry. This Department's responsibilities include participating in the coordination of interventions for the reduction of social exclusion and the fight against vulnerabilities, designing and implementing social action policy, in conjunction with other Ministries, and facilitating the access of vulnerable populations to social action structures.<sup>216</sup>

According to the IOM, the collection of statistical data on migration is conducted by the National Institute of Statistics (*Institut National de la Statistique*, INS) however, "statistical data on migration is sparsely available despite its relevance for the country."<sup>217</sup>

In terms of process, the relevant legal frameworks guide the manner in which foreign nationals practically enter and reside in the country. Different processes will likely apply depending on a person's nationality. For example, in terms of Ordinance No. 2007-604 of 2007, ECOWAS nationals are not required to obtain a residence permit but must maintain valid identifying documents from their country of origin.<sup>218</sup>

From a labour migration perspective, Regulation No. 64-21 of 2004, relates to recruitment and visa fees for employment contracts with foreign nationals and provides that employers must publicly advertise them for one month to Ivorian nationals before recruiting foreign labour. Further, the employment contract must be approved by the public employment service and foreign workers are required to obtain a work card.<sup>219</sup>

#### 3.2.4. Gender norms and socio-economic context

Côte d'Ivoire ranks relatively low on the UNDP Gender Inequality Index at 153<sup>rd</sup> out of 189 countries.<sup>220</sup> The country also ranks relatively low across the various categories of the World Economic Forum's Global Gender Gap Report. The report ranks Côte d'Ivoire 129<sup>th</sup> out of 153 countries for economic participation and opportunity, 142<sup>nd</sup> for educational attainment, 108<sup>th</sup> for health and survival, and 131<sup>st</sup> for political participation.<sup>221</sup> These rankings accord with the position that girls are less likely than boys to complete primary and secondary education, with early pregnancy being a notable threat to girls' education.<sup>222</sup> These results further align with the lack of women in parliament — as of February 2021, only 11,4% of seats in parliament were held by women.<sup>223</sup>

Despite some gender-based barriers, women in Côte d'Ivoire have made notable inroads in the employment sector, having an average labour force participation rate among women at 48,2% (though significantly lower than men, the rate for which sits at 65,5%).<sup>224</sup> Notably, women are

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<sup>216</sup> Ministère de l'Emploi et de la Protection Sociale, 'Department of Social Action' (accessible [here](#)).

<sup>217</sup> MGSOG above n 171 at p. 15, see also UN and IOM above n 210.

<sup>218</sup> Unable to access this Ordinance at this stage. The description of the Ordinance is based on secondary sources listed above n 191.

<sup>219</sup> Unable to access this Regulation at this stage. The description of the Regulation is based on secondary sources listed above n 191.

<sup>220</sup> United Nations Development Programme, 'Gender Inequality Index' (2020) (accessible [here](#)).

<sup>221</sup> World Economic Forum, 'Global Gender Gap Report 2020' (2020) (accessible [here](#)).

<sup>222</sup> Work and Opportunities for Women (above n 181) at p. 9.

<sup>223</sup> UN Women, 'Cote d'Ivoire' (2021) (accessible [here](#)).

<sup>224</sup> United Nations Development Programme, 'Gender Inequality Index' (2020) (accessible [here](#)).

economically active across various sectors, with 42,9% of women working in the agriculture sector, 31,6% in retail, and 9,6% in domestic work.<sup>225</sup>

It is necessary to note, as with other countries, that it is difficult to fully assess socio-economic gender indicators due to the lack of available data. In a study of 104 gender-relevant indicators across six key domains (health, education, economic empowerment, political participation, human security, and environment) Cote d'Ivoire's databases were found to be lacking in several respects, including the lack of gender-relevant indicators available in national databases, and a low emphasis on gender in national strategies and plans.<sup>226</sup>

Traditional gender roles are prevalent in Cote d'Ivoire. A primary example of this is the disparity in the rights of married men and women: married women are not afforded the same rights as married men when it comes to owning, using, and making decisions about collateral land, property and other non-land assets.<sup>227</sup> The expectations of traditional gender roles manifest in harmful ways resulting in women experiencing "significant legal and economic discrimination, and sexual and gender-based violence."<sup>228</sup> Harmful cultural practices including female genital mutilation and child and forced marriages are still practised.<sup>229</sup> However, there have been notable efforts by the state to address this, as recognised by the United Nations Committee on the Elimination of Discrimination against Women which found that there had been significant progress in reducing discrimination and violence against women.<sup>230</sup>

Gender norms and socio-cultural contexts continue to influence economic empowerment opportunities for women. Côte d'Ivoire, West Africa's Francophone economic hub, is lauded as a fast-growing economy, receiving praise for economic reforms that have fuelled progress across several sectors. However, this growth has unfortunately not translated into economic or empowerment opportunities for women, and Côte d'Ivoire retains one of the highest gender inequality rates in the world.<sup>231</sup> The gender roles that inform labour priorities result in a "disproportionate burden of unpaid care work results in pressures on time and a lack of flexible working hours which constrains women's opportunities and access to labour networks in agriculture."<sup>232</sup>

Traditional gender norms also apply to gender and sexual minorities. In Côte d'Ivoire, gender and sexual minorities face discrimination, harassment, and sometimes prosecution in terms of the criminal code for "unnatural acts" and or acting contrary to "moral sensitivity". This is despite same-sex relations being legal in Côte d'Ivoire.<sup>233</sup> In addition, societal prejudice and incidents of discrimination and physical assault against gender and sexual minorities are common.<sup>234</sup>

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<sup>225</sup> Work and Opportunities for Women (above n 181) at p. 9.

<sup>226</sup> Open Data Watch, 'Bridging the Gap: Mapping Gender Data Availability in Africa: Country Profile - Cote d'Ivoire' (2019) (accessible [here](#)).

<sup>227</sup> OECD, 'Social institutions and Gender Index: Cote d'Ivoire' (2019) (accessible [here](#)).

<sup>228</sup> Freedom House, 'Cote d'Ivoire' (2020) (accessible [here](#)).

<sup>229</sup> The Borgen Project, 'Women's empowerment in Côte d'Ivoire' (accessible [here](#)).

<sup>230</sup> Committee on the Elimination of Discrimination against Women, 'Fourth periodic report submitted by Côte d'Ivoire under article 18 of the Convention' (2018) (accessible [here](#)).

<sup>231</sup> Work and Opportunities for Women (above n 181).

<sup>232</sup> *Ibid* at p. 9.

<sup>233</sup> Freedom House above n 166.

<sup>234</sup> Human Rights Watch, 'Côte d'Ivoire: events of 2019' (2020) (accessible [here](#)).

Negative perceptions around sex work align with the prevailing attitudes towards gender norms and sexuality. In Côte d'Ivoire, sex work is not *per se* illegal, but it is illegal to solicit for the purposes of sex work in a public place.<sup>235</sup> This makes it “impossible for sex workers to work legally”.<sup>236</sup> Given that sex work appears to be a common form of labour for migrant workers in Côte d'Ivoire this places them in an increasingly vulnerable position. Despite the legal restrictions, there appears to be a great interest in advancing the rights of sex workers, as evidenced by continuous academic research relating to, among other things, understanding the financial lives of sex workers,<sup>237</sup> HIV prevention, and the sexual health needs of sex workers.<sup>238</sup>

Notwithstanding a lack of reliable data, Côte d'Ivoire is said to be the main country of destination for victims of trafficking in West Africa.<sup>239</sup> Other concerns for vulnerable migrants have been captured by the United Nations survey on Migration Policies in West Africa as follows:

According to the U.S. Department of State, boys from Ghana, Mali, Burkina Faso, Togo, and Benin are exploited within the agricultural sector. They are also found in mines, construction, and carpentry. Girls from Ghana, Togo and Benin are exploited as domestic workers and street vendors. Girls and women from Ghana and Nigeria are also forced into prostitution.<sup>240</sup>

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<sup>235</sup> Article 335 and 338 Penal Code 1981-640 of 1981 (accessible [here](#)).

<sup>236</sup> Global Network of Sex Work Projects, 'Bléty - Abidjan, Ivory Coast' (2016) (accessible [here](#)).

<sup>237</sup> Namey et al 'Understanding the financial lives of female sex workers in Abidjan, Côte d'Ivoire: implications for economic strengthening interventions for HIV prevention' *AIDS Care* 30 (2018) (accessible [here](#)).

<sup>238</sup> Bequet et al, 'Sexual health needs of female sex workers in Côte d'Ivoire: a mixed-methods study to prepare the future implementation of pre-exposure prophylaxis (PrEP) for HIV prevention' *BMJ Open* 10 (2020) (accessible [here](#)).

<sup>239</sup> United Nations survey on Migration Policies in West Africa above n 176 at 134.

<sup>240</sup> *Ibid.*

### 3.3. Ethiopia

#### 3.3.1. Country context through a gender and labour migration lens

Ethiopia, located in the Horn of Africa, is bordered by Eritrea in the north and Kenya in the south, Sudan in the west, and Somalia and Djibouti in the east. Ethiopia has the second-most populous nation in Africa after Nigeria, and despite being one of the poorest countries in the region its economy is said to be one of the fastest-growing.<sup>241</sup> According to Freedom House, Ethiopia is not a free country due to its poor rankings in terms of political rights and civil liberties.<sup>242</sup> Ethiopia is presently in the midst of a civil war, marked by a turbulent year of political and civil unrest which has left thousands dead and forced more than 2 million people from their homes,<sup>243</sup> and more than 62,000 Ethiopians have fled to Sudan.<sup>244</sup> Reports suggest that the “rapidly escalating war threatens to tear apart Ethiopia” and “further destabilise the volatile Horn of Africa region.”<sup>245</sup> The current conflict will likely have an impact on migratory flows, the socio-economic dynamics of the country, which in turn will likely impact employment opportunities. Accordingly, the context and analysis below should be understood as subject to change in the short and medium-term.

Once primarily a country of origin for migrants, Ethiopia has experienced changing migration patterns in recent years. Many Ethiopian emigrants have sought economic opportunities in the Middle East, North America, Europe, and elsewhere in Africa, and this diaspora has had a growing effect on the country's politics and development.<sup>246</sup> Large numbers of migrants particularly from elsewhere in the Horn of Africa also pass-through Ethiopia on their way towards Europe or other common destinations. Migrants travelling from and through Ethiopia tend to follow one of three major migration corridors: eastward to the Persian Gulf states and the Middle East, crossing the Red Sea or the Gulf of Aden; southward to South Africa; and northward across the Sahara, into Sudan and often to Europe.<sup>247</sup> Ethiopia has developed into a major transit point through and out of the Horn of Africa, particularly for migrants from Eritrea and Somalia. As a result, Ethiopia's net migration rate now sits at -0.2 migrant(s)/1,000 population in 2021,<sup>248</sup> with the total number of international migrants hosted in the country estimated at 1,1 million.<sup>249</sup> According to the IOM, migration from Ethiopia to the Gulf is largely irregular with Ethiopian migrants often experiencing significant challenges and risks whilst on their migration journeys. For instance, a survey found nearly 51,000 migrants are missing, 85% of which are men.<sup>250</sup>

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<sup>241</sup> World Bank, 'Ethiopia' (2021) (accessible [here](#)).

<sup>242</sup> Freedom House, 'Ethiopia' (2021) (accessible [here](#)).

<sup>243</sup> New York Times, 'Why is Ethiopia at War with Itself' (2021) (accessible [here](#)).

<sup>244</sup> Mixed Migration Centre, 'Quarterly Mixed Migration Update: East Africa & Yemen' (2021) (accessible [here](#)).

<sup>245</sup> New York Times above n 243.

<sup>246</sup> ReliefWeb, 'Once Primarily an Origin for Refugees, Ethiopia Experiences Evolving Migration Patterns', (2021) (accessible [here](#)).

<sup>247</sup> *Ibid.*

<sup>248</sup> Migration Policy Institute, 'Ethiopia', (2021) (accessible [here](#)).

<sup>249</sup> Migration Data Portal, 'Migration data in Eastern Africa', (accessible [here](#)).

<sup>250</sup> IOM, 'Over 800,000 Ethiopians migrated abroad in the past 5 years - Labour Migration Survey Finds' (2021) (accessible [here](#)).

In terms of labour migration — specifically immigration — given the challenging socio-economic, political, and climate-based challenges “it is likely that Ethiopia is not a popular destination country for regular labour migration, with the exception of those coming to do work related to the development of the country.”<sup>251</sup> From an emigration perspective, and as suggested above, emigration is the primary form of labour migration. Ethiopia has labour exchange agreements with the Gulf States, including Saudi Arabia, where flows are unidirectional. Private Employment Agencies have played a key role in facilitating the migration of an estimated 160,000 Ethiopian domestic workers in the first half of 2012 alone. Of concern, “migrants on this route have been found to be particularly vulnerable to trafficking and abuse”.<sup>252</sup> This seems to be a common concern: “Ethiopian women working as domestic workers in the Middle East are vulnerable to physical and sexual abuse, detention and withholding passports. If these women can escape such situations, they may fall victim to sex trafficking.”<sup>253</sup> Available data illustrates that Ethiopian migrant workers largely consist of women from rural areas with a limited educational background looking for employment opportunities and migrate through regular routes, whereas men often need to need to rely on irregular routes due to lack of opportunity for legal migration.<sup>254</sup> 2017 data indicates that most Ethiopian migrant workers are employed as domestic workers. Daily workers, drivers, herders, guards, and cleaning work are other common forms of occupation from Ethiopian migrant workers.<sup>255</sup>

According to the data from Ministry of Labour and Social Affairs (MoLSA), around 460,000 Ethiopians have legally migrated for employment to the Gulf Cooperation Council (GCC) States mainly Saudi Arabia, Kuwait, United Arab Emirates, and Lebanon between September 2008 and August 2013, and 86% of those were women, mainly migrating for domestic work opportunities.<sup>256</sup> It has been noted that on the contrary, men migrant workers have mainly had to resort to irregular channels due to the lack of opportunity for regular labour migration in those countries.<sup>257</sup>

Research has shown that the majority of Ethiopian migrants working in these countries do not have proper documentation and have migrated through an irregular channel.<sup>258</sup> Although the Ministry of Labour and Social Affairs provides pre-departure orientation, the 2017 survey revealed that fewer than 1 in 5 had received it, demonstrating the need to bolster efforts to provide accurate information from government sources.<sup>259</sup> About 72% of the migrants working in GCC states and Lebanon who had returned home were working under what the ILO defined as forced labour,<sup>260</sup> and a lack of pre-departure orientation was identified as a key driver of this trend.

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<sup>251</sup> Maastricht Graduate School of Governance, ‘Ethiopia – Migration Profile’ (2017) (accessible [here](#)) at p. 6.

<sup>252</sup> *Ibid.*

<sup>253</sup> *Ibid.*

<sup>254</sup> ILO, ‘Promote Effective Labour Migration Governance in Ethiopia’ (2017) (accessible [here](#)) at p. 5-6.

<sup>255</sup> *Ibid* at p. 8-9.

<sup>256</sup> ILO, ‘Policy Brief: Key findings and recommendations form survey on labour migration from Ethiopia to Guld Cooperation Council states and Lebanon’, (2019) (accessible [here](#)).

<sup>257</sup> *Ibid.*

<sup>258</sup> *Ibid.*

<sup>259</sup> *Ibid.*

<sup>260</sup> Defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.



While Ethiopia has a relatively established process for labour inspections, carried out by the Ministry of Labour and Social Affairs, the ILO has noted that few preventive visits are carried out.<sup>261</sup> The National Social Protection Policy notes as one of its underlying principles that social protection services are intended to progressively realise the human rights of all citizens and other members of society,<sup>262</sup> but it is notable that the Policy does not explicitly extend any social protection services to non-citizens or to migrant workers.

### 3.3.2. Labour migration and related gender policies and laws

Ethiopia appears to have a comparatively advanced and comprehensive set of migration legislation and policies.<sup>263</sup> There have also been notable reforms to the labour migration framework of Ethiopia in recent years, as will be highlighted below.<sup>264</sup> Ethiopia has ratified various international conventions and instruments related to migration,<sup>265</sup> but most notably has not signed or acceded to the ILO Convention concerning Migration for Employment,<sup>266</sup> the Migrant Workers (Supplementary Provisions) Convention,<sup>267</sup> the UN International Convention on the Protection of the Rights of All Migrant Workers<sup>268</sup> and the two conventions of Stateless Persons.<sup>269</sup> Regionally, Ethiopia has ratified, among others, the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>270</sup>

The Constitution of Ethiopia provides the basis for the domestication of ratified international instruments in the Ethiopian legal system. Article 9(4) of the Constitution stipulates that all international agreements ratified by Ethiopia are an integral part of the laws of the country, and Article 13(2) provides that fundamental freedoms and rights should be interpreted in a manner consistent with the Universal Declaration of Human Rights, international human rights covenants and conventions ratified by Ethiopia.<sup>271</sup> Article 31(1) protects the rights of foreign nationals lawfully in the country to freedom of movement and freedom to choose their residence, as well as the freedom to leave the country. Further, Article 33(4) states that Ethiopian nationality may be conferred upon foreigners in accordance with laws enacted and procedures established consistent with international agreements ratified by Ethiopia. Moreover, the Constitution

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<sup>261</sup> ILO, 'Labour inspection country profile: Ethiopia', (2009) (accessible [here](#)).

<sup>262</sup> Federal Democratic Republic of Ethiopia, 'National Social Protection Policy of Ethiopia: Final Draft', (2012) at p. 15 (accessible [here](#)).

<sup>263</sup> Ethiopia – Migration Profile'.

<sup>264</sup> ReliefWeb, 'Ethiopia's new migration policy: A positive step but continued scrutiny needed', (2019) (accessible [here](#)).

<sup>265</sup> United Nations Human Rights Treaties, 'Ratification Status for Ethiopia' (accessible [here](#)).

<sup>266</sup> ILO, 'Ratifications of C097 - Migration for Employment Convention (Revised), 1949 (No. 97)', (2021) (accessible [here](#)).

<sup>267</sup> ILO, 'C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)', (2021) (accessible [here](#)).

<sup>268</sup> UN Treaty Collection, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: Status as at 09-11-2021', (2021) (accessible [here](#)).

<sup>269</sup> UN Treaty Collection, 'Convention relating to the Status of Stateless Persons: Status as at 09-11-2021', (2021) (accessible [here](#)).

And UN Treaty Collection, 'Convention on the Reduction of Statelessness: Status as at 09-11-2021', (2021) (accessible [here](#)).

<sup>270</sup> AU, 'OAU/AU Treaties, Conventions, Protocols & Charters' (accessible [here](#)).

<sup>271</sup> Constitution of the Federal Democratic Republic of Ethiopia (1994) (accessible [here](#)).

provides comprehensive protection for the rights of women, including providing the equal status of women to men, and a requirement of affirmative action to address the historical legacy of inequality and discrimination suffered by women in Ethiopia.<sup>272</sup>

In addition, to the international commitment and constitutional protections Ethiopia has a few laws and policies relevant for present purposes:

- **Proclamation 354/2003,<sup>273</sup> read together with regulation 114/2004:<sup>274</sup>** This is the primary framework governing migration policy in Ethiopia and sets out rules and regulations for foreigners, the requirements of getting into or departing from Ethiopia and guides how foreigners can register for a residence permit.
- **Proclamation 377/2003:** With regard to labour protections, article 14 of the Labour Proclamation, which is currently being revised,<sup>275</sup> contains important provisions concerning non-discrimination.<sup>276</sup> It provides, among other things, that it is unlawful for an employer to discriminate against female workers, in matters of remuneration, on the ground of their sex. Employers are also prohibited from discriminating between workers on the basis of nationality, sex, religion, political outlook, or any other condition. The principal objectives of this proclamation include the “establishment of bilateral agreements, the fight to human trafficking, and clearly define and regulate the role of the private sector in overseas employment exchange service.”<sup>277</sup>
- **Proclamation 414/2004:** The Criminal Code of Ethiopia provides for crimes against morals and the family, which include, rape, sexual violence, taking advantage of the distress or dependence of a woman.<sup>278</sup> Under section II on “sexual deviations” same sex sexual activity is illegal.
- **Proclamation 923/2016:** The Ethiopia Overseas Employment Proclamation regulates the migration process and provides a better safeguard of the rights, safety, and dignity of its citizens.<sup>279</sup> The ILO explains that the Proclamation provides identification of three types of recruitment for overseas jobs — through public employment organs, agencies, and direct employment — and introduces notable changes to control and manage the labour migration process. For example, the deployment of overseas workers is not allowed in the absence of a bilateral agreement with the recipient country, and the deployment of workers

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<sup>272</sup> *Ibid* at article 35.

<sup>273</sup> Federal Negarit Gazeta of the Federal Republic of Ethiopia, ‘Proclamation No. 354/2003’, (2003) (accessible [here](#)).

<sup>274</sup> Federal Negarit Gazeta of the Federal Republic of Ethiopia, ‘Council of Ministers Regulation No. 11/2004’, (2003) (accessible [here](#)).

<sup>275</sup> Africa Legal Network, ‘Ethiopia | New Labour Proclamation: Highlights of Key Changes’, (2019) (accessible [here](#)).

<sup>276</sup> Proclamation 377/2003 (accessible [here](#)).  
Africa Legal Network, ‘Ethiopia | New Labour Proclamation: Highlights of Key Changes’, (2019) (accessible [here](#)).

<sup>277</sup> ILO, ‘The Ethiopian overseas employment proclamation No. 923/2016 : a comprehensive analysis’ (2017) (accessible [here](#)) (IOL, Ethiopia: comprehensive analysis)

<sup>278</sup> Proclamation 414/2004 (accessible [here](#)) at section I.

<sup>279</sup> IOL, Ethiopia: comprehensive analysis (above n 277).

under the age of 18, without the 8th grade of education, and a certificate of occupational competence is strictly prohibited.<sup>280</sup>

- **Proclamation 1064/2017:** The Federal Civil Servants Proclamation prohibits discrimination in recruitment or selection.<sup>281</sup> It provides that women shall be entitled to affirmative action in recruitment, promotion, transfer, redeployment, education, and training.<sup>282</sup> It further provides for the conditions of work applicable to minority nations nationalities and peoples, in that the placement of personnel in a government institution shall take into account fair representation of nations, nationalities and peoples, and that nationalities and peoples having lesser representations within a government institution shall be given the advantage of affirmative action in recruitment, promotion, transfer, redeployment, education and training.<sup>283</sup>
- **Proclamation 1178/2020:** The recently enacted Proclamation on Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants seek to criminalise human trafficking more stringently.<sup>284</sup> It specifically provides for the unlawful sending of persons abroad for work. It further appears to criminalise sex work. Article 7 provides that “any person for the purpose of benefiting from the prostitution or immorality of another or to gratify the sexual passions of another, causes another to engage in prostitution, acts as go-between, procures, keeps in a brothel, uses or rents out his residence or place of business for this purpose in whole or in part or uses the prostitution or immorality of another in any other manner shall be punishable with rigorous imprisonment”.

### 3.3.3. Key stakeholders and institutional processes on labour migration

The shake-up in migration policy in Ethiopia has equally been reflected in changes to the institutional bodies responsible for managing migration in the country. For example, Ethiopia’s Immigration Nationality and Vital Events Agency was restructured by Regulation No. 449/2019, and the former Administration for Refugee and Returnee Affairs became an Agency accountable to the Ministry of Peace and shifted from its previously refugee-centred approach towards focusing on the rehabilitation of returnees.<sup>285</sup> The number of agencies concerned with migration-related issues in Ethiopia has reportedly grown in recent years due to the interest of donors in stemming irregular migration to Europe.<sup>286</sup>

The Ethiopian government has recently become much more intentional about engaging the diaspora and leveraging their potential to contribute to development. In 2002, it formed the Ethiopian Expatriate Affairs General Directorate, which has since been replaced by the Diaspora

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<sup>280</sup> Ibid.

<sup>281</sup> Proclamation 1064/2017 (accessible [here](#)).

<sup>282</sup> *Ibid* at article 48.

<sup>283</sup> *Ibid* at article 50.

<sup>284</sup> Proclamation 1178/2020 (accessible [here](#)).

<sup>285</sup> The Federal Democratic Republic of Ethiopia. ‘National Voluntary Report on the Implementation of the Global Compact on Migration For the United Nations Economic Commission for Africa: National Partnership Coalition (NPC) on Migration’, (2020) (accessible [here](#)) (Ethiopia National Voluntary Report).

<sup>286</sup> ADMIGOV, ‘An Overview of Migration Governance in Ethiopia’, (2019) (accessible [here](#)).

Engagement Affairs General Directorate, under the Ministry of Foreign Affairs.<sup>287</sup> In 2018, the ministry also established an Ethiopian Diaspora Agency.<sup>288</sup> These offices have been charged with working with the diaspora and ensuring their issues are integrated into development projects. The government has also added labour attachés to many diplomatic missions.

The Ethiopian government has also demonstrated initiative in implementing the GCM, giving directions to mainstream it into the country's second five-year Growth and Transformation Strategic Plan (GTP II) (2015/16-2019/20) and the Ten-Year Perspective Plan for Ethiopia (2020/21-2030/31).<sup>289</sup> The government has also noted its intention to develop a National Migration Policy and has formed a technical working group and recruited a consultancy team to prepare this policy, which is currently underway.<sup>290</sup>

In terms of key stakeholders, the Ministry of Labour and Social Affairs is in charge of the overseas employment process management and is responsible for setting employment standards, licensing the agencies, and taking administrative measures against those agencies that contravene the countries laws.<sup>291</sup> In relation to the Ethiopia Overseas Employment Proclamation, MOLSA is the ministry responsible for supervising the overseas employment process through creating the necessary structure and assigning a labour attaché in consultation with the Ministry of Foreign Affairs.<sup>292</sup> Moreover, According to the ILO, Ethiopia has a National Committee/task force for better coordination of activities designed for victims protection, assistance and rehabilitation and the anti-human trafficking and smuggling of migrants.<sup>293</sup> The Ministry of Women, Children and Youth Affairs undertakes various activities to ensure the participation and benefit of women and youth.

#### 3.3.4. Gender norms and socio-economic context

Ethiopia is a highly diverse country, but in most communities patterns of unequal decision-making and inequitable division of labour between men and women persist.<sup>294</sup> Ethiopia ranked 173<sup>rd</sup> on the UNDP Gender Inequality Index in 2020, out of a total of 189 countries ranked.<sup>295</sup> The country's score was brought down primarily by poor rankings on maternal mortality and women's educational attainment, but the country scored relatively well on women's political participation (37.3% of seats in parliament held by women). The labour force participation rate for women, while relatively high on a global scale at 73.4%, still sits significantly below that of men (85.5%).

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<sup>287</sup> ReliefWeb, 'Once Primarily an Origin for Refugees, Ethiopia Experiences Evolving Migration Patterns', (2021) (accessible [here](#)).

<sup>288</sup> *Ibid.*

<sup>289</sup> Ethiopia, 'National Voluntary Report on the Implementation of the Global Compact on Migration' (2020) (accessible [here](#)).

<sup>290</sup> *Ibid.*

<sup>291</sup> IOL, Ethiopia: comprehensive analysis (above n 277).

<sup>292</sup> *Ibid.*

<sup>293</sup> *Ibid.*

<sup>294</sup> Care International, 'Gender in Brief: Ethiopia', (accessible [here](#)).

<sup>295</sup> UNDP, 'Gender Inequality Index 2020', (2020) (accessible [here](#)).

On the World Economic Forum Global Gender Gap Index, Ethiopia ranked 97<sup>th</sup> in 2020 out of 156 countries scored, with a marked decrease in score from 2019.<sup>296</sup> The country's ranking was brought down primarily by low scores on educational attainment (141) and economic participation and opportunity (128<sup>th</sup>), which was counterbalanced by a relatively good score on health and survival (77<sup>th</sup>) and an exceptional score on political empowerment (28<sup>th</sup>). This is demonstrated by the fact that 40% of ministers in the country are women, and in 2018 a woman was elected president for the first time in the country's history. On the contrary, only 26,5% of senior roles in the country are held by women and the income gap remains relatively large.

Gender-based violence also remains prevalent in the country although there is significant variance in magnitude across regions and between urban and rural areas. The 2016 Ethiopia Demographic and Health Survey found that 63% of women and 28% of men agree that a husband is justified in beating his wife in at least one possible scenario (burning food, arguing, going out without permission, neglecting the children, or refusing to have sexual intercourse).<sup>297</sup>

Historically, disparities between men and women in the division of labour, the share of power, resources, and benefits have been justified and maintained by patriarchal social norms and structures. These norms have manifested in some harmful practices. For example, between 60% and 80% of Ethiopian women have experienced some form of female genital mutilation, arranged marriage, child marriage, or polygamy, and 8% of married women between the ages of 15 and 49 years have reported being abducted.<sup>298</sup> Further, 28% of women in the country have been subjected to violence at least once in their lifetime.<sup>299</sup>

In the labour migration context Global Action Programme on Migrant Domestic Workers and their Families records that:

Many migrant women seek employment in order to survive and fund their travel onwards to the intended countries of destination. Most migrant women in transit work in the informal sector where employment can be hazardous and undignified and where labour protections do not extend to them, especially if they are in irregular status. They are frequently vulnerable to trafficking and exploitation.<sup>300</sup>

According to the US Department of State "Ethiopia is mainly a source, but also transit and destination country for children, women, and men who are subjected to sex trafficking and forced labour domestically and abroad."<sup>301</sup> It appears that in the context of trafficking, girls from rural areas are being exploited as prostitutes or domestic servants, boys are being "subjected to forced labour in traditional weaving, construction, agriculture and street vending".<sup>302</sup>

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<sup>296</sup> WEF, 'Global Gender Gap Report 2021', (2021) (accessible [here](#)).

<sup>297</sup> Murphy, Jones, Yadete and Baird, 'Gender-norms, violence and adolescence: Exploring how gender norms are associated with experiences of childhood violence among young adolescents in Ethiopia', (2020) (accessible [here](#)).

<sup>298</sup> *Ibid.*

<sup>299</sup> WEF, 'Global Gender Gap Report 2021', (2021) (accessible [here](#)).

<sup>300</sup> Global Action Programme on Migrant Domestic Workers and their Families, 'Promoting and protecting the rights of migrant domestic workers in transit: The case of Ethiopian women migrants' (2016) (accessible [here](#)).

<sup>301</sup> Ethiopia – Migration Profile' at p. 9.

<sup>302</sup> *Ibid.*

As noted above same-sex sexual activity remains illegal in Ethiopia, prohibited by the Ethiopian Criminal Code, and homosexuality is not accepted in the country.<sup>303</sup> According to a 2007 Pew Global Attitudes Survey, 97% of Ethiopians believe that homosexuality should be rejected.<sup>304</sup>

While sex work is widespread in Ethiopia, with more than 200,000 women estimated to be engaged in prostitution according to government data, it is also part of the wider human trafficking problem in the country.<sup>305</sup> Sex work is not illegal in Ethiopia, but the Thompson Reuters Foundation reports that sex workers report routinely being harassed, beaten, and robbed by clients, facing stigma and unsafe working conditions.<sup>306</sup>

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<sup>303</sup> Rights in Exile Programme, 'Ethiopia LGBTI Resources', (accessible [here](#)).

<sup>304</sup> *Ibid.*

<sup>305</sup> Info Migrants, 'Prostitution, COVID and trafficking: A spiral of despair for Ethiopian returnees', (2021) (accessible [here](#)).

<sup>306</sup> *Ibid.*

### 3.4. Malawi

#### 3.4.1. Country context through a gender and labour migration lens

Malawi, a landlocked country in southeastern Africa, sharing its borders with Mozambique, Zambia and Tanzania, remains one of the poorest countries in the world.<sup>307</sup> Malawi ranks fairly well in terms of political rights and civil liberties.<sup>308</sup> There is limited information in relation to labour migration flows, the common forms of employment of migrant labourers, the key challenges they face, and the gender patterns of such migration. However, the available resources and data highlight some of the labour migration trends in Malawi as well as some of the key gender dynamics that inform the migration trends.

Malawi's labour migration trends can be broadly understood in terms of migration from Malawi, Malawi as a transit state, and internal rural-urban migration. First, large scale labour migration from Malawi to other southern African states is still very common.<sup>309</sup> In this regard, Malawi has strong ties to South Africa having historical and contemporary labour migration patterns, particularly in the mining and agricultural sectors. Second, and owing to its centrality in Southern Africa, Malawi is an important transit country for migration in the region.<sup>310</sup> Third, Malawi has high levels of rural-urban migration within the country.<sup>311</sup> In addition to economic opportunities, internal migration is sometimes influenced by population displacement due to environmental factors.<sup>312</sup> Overall, Malawi has comparatively low numbers of international migrants — 1,3% of Malawi's population.<sup>313</sup> This may be due to the steady decline in the numbers of international migrants in Malawi.<sup>314</sup>

From a gender perspective, it appears that men form the bulk of the labour migration population leaving Malawi, this may be due to traditional gender norms that expect men to provide financially.<sup>315</sup> When women do migrate, it seems that labour may not be the primary factor. A 2014 study suggests that women were almost twice as likely as young men to have migrated for family reasons.<sup>316</sup> According to the International Labour Migration Statistics, inflows of foreign-born employed persons are predominantly employed in agriculture and services, with women migrants being slightly more likely to be employed in agriculture and less likely to be employed in industry and services than men migrants.<sup>317</sup>

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<sup>307</sup> World Bank, 'Malawi' (2021) (accessible [here](#)).

<sup>308</sup> Freedom House, 'Malawi' (2021) (accessible [here](#)).

<sup>309</sup> Niboye, 'International Labour Out-Migration in Mzimba District, Malawi: Why Persistent?' *International Journal of Research in Geography (IJRG)* 4 (2018) (accessible [here](#)).

<sup>310</sup> IOM, 'Migration in Malawi: A country Profile (2014) (accessible [here](#)) (IOM, Malawi).

<sup>311</sup> Niboye, 'International Labour Out-Migration in Mzimba District, Malawi: Why Persistent?' *International Journal of Research in Geography (IJRG)* 4 (2018) (accessible [here](#)).

<sup>312</sup> IOM, Malawi (above n 310).

<sup>313</sup> United Nations Department of Economic and Social Affairs, 'International Migrant Stock 2019: Country Profile – Malawi' (2019) (accessible [here](#)).

<sup>314</sup> *Ibid.*

<sup>315</sup> INCLUDE, 'Migrating men, entrepreneurial women: An effect of Malawian men's labour migration to South Africa' (2016) (accessible [here](#)).

<sup>316</sup> ILO, 'Labour market transitions of young women and men in Malawi' (2014) (accessible [here](#)).

<sup>317</sup> Accessible [here](#).

Internal sex and labour trafficking appear to be a cause for concern in Malawi. According to the US Department of State, traffickers exploit most Malawian victims within the country, who transported from the southern part of the country to the central and northern regions for “forced labour in agriculture (predominantly the tobacco industry), goat and cattle herding, and brickmaking.”<sup>318</sup> Malawian victims of sex and labour trafficking have been found across the region in Mozambique, South Africa, Zambia, Kenya, and Tanzania, as well as in Iraq, Kuwait, and Saudi Arabia.<sup>319</sup>

#### 3.4.2. Labour migration and related gender policies and laws

It appears that Malawi does not presently have a comprehensive labour migration framework, however, there are key policies in draft form that are expected to be implemented during 2021, namely, the National Migration Policy and the National Labour Migration Policy.<sup>320</sup> There is limited information available on the progress of these policies. However, Malawi’s international commitments, constitutional framework and existing domestic legislation provide some insight into Malawi’s approach to issues of migration, labour, and gender more broadly.

Malawi is a state party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.<sup>321</sup> Additionally, Malawi has ratified the African Charter on Human and People’s Rights and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa<sup>322</sup> Malawi has not signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Malawi has ratified all 8 of the ILO’s fundamental conventions.<sup>323</sup> However, the country has not ratified the Migrant Workers (Supplementary Provisions) Convention; the Private Employment Agencies Convention or the Domestic Workers Convention.<sup>324</sup>

Malawi’s Constitution provides that discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinions, national, ethnic or social origin, disability, property, birth or other status or condition.<sup>325</sup> The Constitution further promotes the ideal of gender equality, which requires the full participation of women in all spheres of Malawian society on the basis of equal opportunities with men; the implementation of policies to address social issues such as domestic violence and economic exploitation.<sup>326</sup> Moreover, the Constitution specifically provides for the rights of women to have full and equal

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<sup>318</sup> US Department of State, ‘2020 Trafficking in Persons Report: Malawi’ (2020) (accessible [here](#)).

<sup>319</sup> *Ibid*.

<sup>320</sup> National Voluntary Review of GCM – Malawi (2018) (accessible [here](#)). These will be discussed in more detail below.

<sup>321</sup> See UN, ‘Status of Ratification: Interactive Dashboard’ (accessible [here](#)).

<sup>322</sup> AU, OAU/AU Treaties, Conventions, Protocols & Charters’ (accessible [here](#)).

<sup>323</sup> IOL, ‘Ratifications for Malawi’ (accessible [here](#)).

<sup>324</sup> IOL, ‘Up-to-date Conventions and Protocols not ratified by Malawi’ (accessible [here](#)).

<sup>325</sup> Malawi’s Constitution of 1994 with Amendments through 2017 at section 20 (accessible [here](#)).

<sup>326</sup> *Ibid* at section 13.



protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status.<sup>327</sup>

The following domestic laws and regulations provide for migration, labour, or gender:

- **Immigration Act 1964:** The primary purpose of the Immigration Act is to regulate the entry of persons into Malawi and to prohibit the entry of “undesirables” into Malawi.<sup>328</sup> The Act provides an extensive list of persons who are deemed to be prohibited immigrants, including but not limited to:
  - Any person who the Minister determines is undesirable for economic reasons or because of their “standards or habits of life.”
  - Any person who cannot read or write a language, as prescribed in Regulations.
  - Any person with a disability, including both epilepsy and mental health problems, unless security is given by a person who is with them.
  - Any person suffering from a disease prescribed in the Regulations.
  - Any person who has been convicted of an offence prescribed in the Regulations.
  - Any sex worker homosexual person, person who has profited from sex work or homosexuality, or person who has procured men or women for “immoral purposes.”<sup>329</sup>
- **Immigration Regulations of 1968:** These Regulations provide for immigration procedures, permits, and processes relating to prohibited migrants.<sup>330</sup>
- **Penal Code (as amended in 1999):** Malawi’s Penal Code — in particular chapter XV on offences against morality — criminalises the procurement sex work, abortion, and same-sex sexual activity.<sup>331</sup>
- **Employment Act of 2000:** While the Employment Act does not expressly provide for migrant labour, the references relating to nationality suggest some protections for migrant labourers. For example, there are anti-discrimination provisions that include references to nationality.<sup>332</sup> In addition, every employer is required to pay employees equal remuneration for work of equal value without distinction of discrimination on the basis of several grounds including nationality.<sup>333</sup> Further, nationality does not constitute valid reasons for dismissal or the imposition of disciplinary action.<sup>334</sup> The Act further prohibits discrimination against an employee/ prospective employee on basis of “sex” or “other status” in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of the employment relationship.<sup>335</sup>

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<sup>327</sup> *Ibid* at section 24.

<sup>328</sup> Immigration Act of 1964 (accessible [here](#)).

<sup>329</sup> For further details on the Immigration Act see Southern African Litigation Centre & CHREEA, ‘Malawi Immigration Law Audit’ (2016) (accessible [here](#)).

<sup>330</sup> Immigration Regulations of 1968 (accessible [here](#)).

<sup>331</sup> Penal Code (as amended in 1999) (accessible [here](#)). See also Southern African Litigation Centre, ‘Transgender rights in Malawi’ (2017) (accessible [here](#)).

<sup>332</sup> Employment Act 6 of 2000 at section 5 (accessible [here](#)).

<sup>333</sup> *Ibid.* at section p. 6.

<sup>334</sup> *Ibid* at section 57(3).

<sup>335</sup> *Ibid* at section 5.

It provides for equal remuneration for employees without distinction and discrimination of any kind – in particular on the basis of sex or “other status”.<sup>336</sup> It further provides that it is not a valid reason to dismiss an employee or impose disciplinary action on the basis of the employee’s sex.<sup>337</sup>

- **Prevention of Domestic Violence Act of 2007:** This Act provides for the prevention of domestic violence, for the protection of persons affected by domestic violence.<sup>338</sup> It includes provisions around sexual abuse and further includes provisions relating to economic abuse, which means denying a person the liberty to undertake any lawful income-generating activity or access economic resources, and includes the refusal to provide basic household necessities, withholding that person’s income or salary and denying that person the opportunity to seek employment
- **Gender Equality Act of 2013:** This Act seeks to promote gender equality, equal integration, influence, dignity and opportunities for men and women in all function societies. Moreover, it prohibits and provides for redress for discrimination based on sex, harmful practices and sexual harassment.<sup>339</sup> Section 7 of the Gender Equality Act provides that the government must take active steps to eliminate sexual harassment in the workplace, by ensuring that employers have appropriate policies to deal with sexual harassment.
- **Trafficking Act of 2015:** This Act seeks to, among other things, criminalise sex trafficking and labour trafficking. It provides for the prevention and elimination of trafficking in persons and establishes the National Coordination Committee against Trafficking in Persons.<sup>340</sup>

At the policy level, Malawi’s Diaspora Engagement Policy seeks to establish a mutually beneficial relationship between Malawi and its Diaspora, with the underlying goal of mainstreaming and empowering Malawians abroad to effectively make significant and effective contributions to the development of the country.<sup>341</sup> The policy further brings together key national stakeholders to build an enabling environment in which the Diaspora will find avenues to contribute to the socio-economic development of the country. The Policy also sets up the institutional framework and clarifies the roles and responsibilities of stakeholders in the implementation of the Diaspora Engagement Programme. Further, and according to the Malawian government, it developed labour export guidelines for private and employment agencies and migrating individuals in 2016. These guidelines seek to reduce vulnerabilities during migration.<sup>342</sup>

The draft National Migration Policy seeks to provide a framework within which relevant legislation shall be adopted and proper administrative mechanisms are institutionalised. It is set to integrate Malawi’s migration procedures into a consolidated framework within the context of

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<sup>336</sup> *Ibid* at section 6(1).

<sup>337</sup> *Ibid* at section 57(3).

<sup>338</sup> Domestic Violence Act of 2007 (accessible [here](#)).

<sup>339</sup> Gender Equality Act of 2013 (accessible [here](#)).

<sup>340</sup> Trafficking Act of 2015 (accessible [here](#)).

<sup>341</sup> Diaspora Engagement Policy (2017) (accessible [here](#)).

<sup>342</sup> National Voluntary Review of GCM – Malawi above n 320.

migratory flows.<sup>343</sup> The draft Labour Migration Policy seeks to protect migrants and harness the benefits of labour migration for socio-economic development in Malawi. It is unclear if the draft policy specifically considers the gender dimensions of labour migration.

### 3.4.3. Key stakeholders and institutional processes on labour migration

The Ministry of Home Affairs and Internal Security, the Immigration Department, the Malawi Police and Prisons Services the Ministry of Gender, Children, Disability and Social Welfare, and the Ministry of Labour are key stakeholders in the context of migration matters in Malawi.<sup>344</sup>

In terms of process, the Immigration Act provides that anyone entering Malawi without a valid passport or identity document is a prohibited immigrant.<sup>345</sup> The Immigration Regulations provide for Temporary Employment Permits and Business Resident Permits which enable foreign nationals to work and conduct business in Malawi. There appear to be no other viable permit options for persons seeking employment in Malawi. By way of a brief overview, Temporary Employment Permits are required for foreign nationals who have been offered employment by any organisation in Malawi. It is the responsibility of the organisation to apply for the permit on behalf of the applicant.<sup>346</sup> The Malawian government has expressed concern that this process is not being followed and has issued a reminder to “all organizations that it is a criminal offence under the Immigration Act to work or be employed without a Temporary Employment Permit.”<sup>347</sup> The Government further noted that “those found will be liable to prosecution.” Business Resident Permits are geared towards persons seeking to reside in Malawi for the purpose of conducting business and intending to invest in manufacturing, mining, agriculture, fisheries, tourism and financial services and any productive sector.<sup>348</sup> The permit is valid for five years from the date of approval and is renewable for a successive period of five years.

In terms of human trafficking issues, members of the Ministry of Homeland Security, the Ministry of Labor, the Department of Immigration, the Ministry of Gender, the Malawi Police Service, and the judiciary have been trained as trafficking data collection officers.<sup>349</sup>

The Draft Labour Migration Plan envisages a cooperative governance structure. For example, the Ministry of Labour would be responsible for work-related matters among migrants, and the Immigration Department would take responsibility for regulation immigration, and collecting migration data, the Ministry of Finance, the Reserve Bank of Malawi, and the Ministry of Foreign Affairs would be jointly responsible for the management of migration and development issues.<sup>350</sup>

The Ministry of Gender, Youth and Community Services is the “gender machinery mandated to spearhead the formulation, implementation, coordination, monitoring and evaluation of the

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<sup>343</sup> *Ibid.*

<sup>344</sup> IOM, ‘Migration in Malawi: A country Profile’ (2014) (accessible [here](#)).

<sup>345</sup> Immigration Act of 1964 (accessible [here](#)).

<sup>346</sup> See Department of Immigration and Citizenship Service, ‘Temporary Employment Permit’ (accessible [here](#)).

<sup>347</sup> Department of Immigration and Citizenship Service, ‘Notice on Temporary Employment Permits’ (accessible [here](#)).

<sup>348</sup> Department of Immigration and Citizenship Service, ‘Business Resident Permits’ (accessible [here](#)).

<sup>349</sup> US Department of State above n 318.

<sup>350</sup> National Voluntary Review of GCM – Malawi above n 325.

gender policy.”<sup>351</sup> Furthermore, the Ministry “oversees the mainstreaming of gender in all development policies, programmes, projects and activities and provides technical backstopping services in gender to all its stakeholders”. This Ministry also deals with women migrants in vulnerable positions.<sup>352</sup> In addition, this Ministry collects, and reports cases relating to vulnerable women migrants and determines forms of social assistance to have provided them.<sup>353</sup>

#### 3.4.4. Gender norms and socio-economic context

Malawi scores relatively low on the UNDP Gender Inequality Index at 142<sup>nd</sup>, with high birth rates for young women (132,7 per 1,000 women aged 15-19), low female education rates, and poor women representation in Parliament. However, the participation of women in the labour force is surprisingly high, at 72%.<sup>354</sup> This aligns with the World Economic Forum Report, which ranked Malawi 116<sup>th</sup> overall, 113<sup>th</sup> for economic participation and opportunity, 128<sup>th</sup> for educational attainment and 90<sup>th</sup> for political empowerment.<sup>355</sup> Interestingly, the World Economic Forum ranks Malawi among the top of the countries in the world for health and survival. As previously noted, achieving gender equality is hampered by harmful cultural practices. For example, 42,1% of women aged 20–24 years old were married or in a union before age 18.<sup>356</sup>

Gender inequality is rife in Malawi and is informed by traditional patriarchal perceptions around gender norms and gender roles. Women are more likely to be engaged in low-income activities and unpaid care and are less likely to be involved in decision-making processes.<sup>357</sup> Boys are more likely to complete their schooling than girls, which, in turn, limits formal work opportunities for girls, who are then more likely to be engaged in subsistent farming, informal labour, or to take primary responsibility for domestic duties.<sup>358</sup> Beyond schooling and entry-level employment, gender norms also manifest in labour settings, in particular in the agriculture sector. Research indicates that men in Malawi have enhanced mobility, which in turn enables their access to agricultural knowledge and information, whereas women, usually bound to their homes and neighbourhood, do not have the same access opportunities.<sup>359</sup> In addition, gender roles have the potential to diminish women’s confidence and “perceived significance of their role as well as their authority and decision-making power in agricultural processes.” This accords with findings in relation to political participation, as women remain underrepresented in politics and remain hesitant to become politically involved.<sup>360</sup>

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<sup>351</sup> UN Gender and Land Rights Database, ‘Malawi’ (accessible [here](#)).

<sup>352</sup> IOM, ‘Migration in Malawi: A country Profile’ above n 349.

<sup>353</sup> *Ibid.*

<sup>354</sup> United Nations Development Programme, ‘Gender Inequality Index’ (2020) (accessible [here](#)).

<sup>355</sup> World Economic Forum, ‘Global Gender Gap Report 2020’ (2020) (accessible [here](#)).

<sup>356</sup> UN Women, ‘Malawi’ (2021) (accessible [here](#)).

<sup>357</sup> Lovel, ‘Gender Equality, Social Inclusion and Resilience in Malawi’ (2021) (accessible [here](#)).

<sup>358</sup> Committee on the Elimination of Discrimination against Women, ‘Consideration of reports submitted by States parties under article 18 of the Convention Seventh periodic report of States parties: Malawi’ (2014) at p. 22 (accessible [here](#)).

<sup>359</sup> Mudege, ‘The role of gender norms in access to agricultural training in Chikwawa and Phalombe, Malawi’ *A Journal of Feminist Geography* 24 (2017) (accessible [here](#)).

<sup>360</sup> Freedom House (above n 308).

Harmful cultural practices, such as child and forced marriages and sexual initiation ceremonies continue to disadvantage women and girls, creating “critical barriers to achieving inclusive adaptation and resilience policy and programming.”<sup>361</sup>

Violence and discrimination against gender and sexual minorities also continue in Malawi and reinforce traditional societal attitudes towards gender norms. Human Rights Watch, in its recent submission to the UN Human Rights Committee, noted with concern that Malawi’s Penal Code still criminalises consensual same-sex relations and submitted that gender and sexual minorities “face routine violence and discrimination in almost all aspects of their daily lives. Police often physically assault, arbitrarily arrest and detain them, sometimes without due process or a legal basis, at other times as punishment for simply exercising basic rights, including seeking treatment in health institutions.”<sup>362</sup> Despite some jurisprudential gains,<sup>363</sup> sex workers face challenges in relation to physical, psychological and economic abuse and access to health care.<sup>364</sup> As noted above, the Immigration Act also places access limits on foreign national sex workers, illustrating the negative stigma around sex work that is pervasive in Malawi.

More specific to labour migration and human trafficking the US State Department explains that—

Some girls recruited for domestic service are instead forced to marry and are subsequently exploited in sex trafficking by their “husbands.” Fraudulent employment agencies lure women and girls to Gulf states, where traffickers exploit them in sex and labour trafficking.<sup>365</sup>

The US State Department further states:

Traffickers exploit teenage boys in forced labour on farms and young girls in sexual exploitation in nightclubs or bars. Traffickers exploit children in forced labour in begging, small businesses, and potentially in the fishing industry; in past years, some were coerced to commit crimes. Adult tenant farmers are vulnerable to exploitation, as they incur debts to landowners and may not receive payment during poor harvests.<sup>366</sup>

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<sup>361</sup> Lovel above n 357. See further Spotlight Initiative, ‘U-Report: Malawi’ (2021) (accessible [here](#)).

<sup>362</sup> Human Rights Watch, ‘Submission to the UN Human Rights Committee’ (2021) (accessible [here](#)).

<sup>363</sup> Global Network of Sex Work Projects, ‘Malawian Court Rules in Favour of Sex Workers’ (2016) (accessible [here](#)).

<sup>364</sup> *Ibid* See also Doctors without Borders, ‘Sex workers on the frontline of the HIV response in Malawi’ (accessible [here](#)).

<sup>365</sup> US State Department above n 318.

<sup>366</sup> *Ibid*.

### 3.5. Morocco

#### 3.5.1. Country context through a gender and labour migration lens

Morocco, a northern African country with borders with Western Sahara in the south, Algeria to the east and southeast, the Atlantic Ocean to the west, and the Mediterranean Sea to the north, is ranked as partly free in terms of political rights and civil liberties.<sup>367</sup> As a high-level overview, Morocco's socio-economic weaknesses and the apparent lack of opportunities have contributed towards irregular migration patterns, and there appears to be a need for comprehensive policies to address the country's socio-economic challenges particularly as Morocco is hosting an increasing number of migrants.<sup>368</sup> The limited available data and research on "precise and detailed statistics on migration stocks and flows", with such data not being collected in a regular and organised manner.<sup>369</sup> Research suggests that public institutions are not equipped to collect information on migrants' access to basic services, and there is scarce information on migration trends and patterns, which hinder the state's ability to engage with meaningful responses. However, some research over the past few years provides some insight.

There is a sizable Moroccan population living abroad, and over the past two decades, the geographical proximity of the country to Europe has encouraged transit migration from sub-Saharan Africa.<sup>370</sup> Moreover, Morocco is one of the most active points of departure to Europe. This is largely due to the Western Mediterranean route from Morocco to Spain becoming the main point of entry to Europe in 2018.<sup>371</sup> Morocco has also increasingly become a final destination country for many economic migrants and asylum seekers.<sup>372</sup> Migration flows have accelerated particularly since 2018, partly as a result of the security situation in Libya and the reinforced controls in neighbouring countries.<sup>373</sup> In 2015, the number of migrants to Morocco had increased 24.82% from 2010,<sup>374</sup> reaching 0.257% of the total population,<sup>375</sup> a record high since at least 1960. In 2013, the stock of international migrants in Morocco comprised 47.7% women migrants compared to 52.3% men, and the top countries of origin were Algeria, France, South Sudan, and Italy.<sup>376</sup> Migrants leaving Morocco were largely headed to France, Spain and Italy.<sup>377</sup> Remittances from Moroccans living abroad are considerable, sometimes constituting the second-largest source of revenue for the economy after tourism and reaching 6.5% of GDP in 2020.<sup>378</sup> Morocco

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<sup>367</sup> Freedom House, 'Morocco' (2021) (accessible [here](#)).

<sup>368</sup> D Fakoussa et al, 'Morocco's Socio-Economic Challenges: Employment, Education, and Migration - Policy Briefs from the Region and Europe' (2020) (accessible [here](#)).

<sup>369</sup> Global Compact for Migration & GIZ, 'Morocco's Migration Policies and the Global Compact for Safe, Orderly and Regular Migration' (2018) (accessible [here](#)).

<sup>370</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Initial Report of Morocco', (2012) (accessible [here](#)).

<sup>371</sup> UNHCR, 'Routes Towards the Mediterranean: Reducing Risks and Strengthening Protection' (2019) (accessible [here](#)).

<sup>372</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Initial Report of Morocco'.

<sup>373</sup> UNHCR, 'Morocco', (2020) (accessible [here](#)).

<sup>374</sup> MacroTrends, 'Morocco Immigration Statistics 1960-2021', (accessible [here](#)).

<sup>375</sup> World Bank, 'International migrant stock (% of population) - Morocco', (2015) (accessible [here](#)).

<sup>376</sup> UNICEF, 'Migration Profiles: Morocco', (accessible [here](#)).

<sup>377</sup> *Ibid.*

<sup>378</sup> World Bank, 'Personal remittances, received (% of GDP) - Morocco', (2020) (accessible [here](#)).

receives a hefty portion of total migrant remittances received in Africa at around 10% of the total.<sup>379</sup>

As with other countries reviewed in this analysis, trafficking appears to be a concern. The 2014 Report of the Special Rapporteur on trafficking in persons, especially women and children on her visit to Morocco records:

According to certain international organizations and national civil society organizations, there has been a significant increase in the number of victims of trafficking in Morocco in recent years. The majority of victims of trafficking and irregular migrants, originating mainly from sub-Saharan Africa, but also certain South-East Asian countries, are located in the northern part of Morocco. For those in transit, the main destination in Europe, particularly Spain, owing mainly to its geographical proximity. Women and girls are trafficked mainly for sexual exploitation, and men for forced or bonded labour.<sup>380</sup>

From a gender perspective research highlights that there is a discernible data gap in relation to gender and labour migration, an issue that has not been addressed through nationally representative data.<sup>381</sup>

### 3.5.2. Labour migration and related gender policies and laws

It is unclear if Morocco has a comprehensive migration policy. However, international commitment and domestic law read collectively provide some understanding of the migration, labour, and gender frameworks of the country.

Morocco has ratified a number of relevant international instruments related to migration, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention of the Protection of the Rights of all Migrant Workers and Members of their Families.<sup>382</sup> In addition, Morocco has ratified the 7 of 8 Fundamental Convention of the ILO (the Freedom of Association and Protection of the Right to Organise Convention has not been ratified). Morocco has ratified the Migration for Employment Convention<sup>383</sup> but has not ratified the Migrant Workers (Supplementary Provisions) Convention, Domestic Workers Convention, or the Violence and Harassment Convention.<sup>384</sup> Morocco has not signed any AU treaties or conventions, save for the Constitutive Act of the African Union.<sup>385</sup>

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<sup>379</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 51 (accessible [here](#)).

<sup>380</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 'Visit to Morocco' (2014) (accessible [here](#)).

<sup>381</sup> A Lenoël & A David, 'Leaving Work Behind? The Impact of Emigration on Female Labour Force Participation in Morocco' (2019) *Out-migration, Diaspora Policies, and the Left Behind* (accessible [here](#)). See also F Sadiqi & Moha Ennaji, 'The Impact of Male Migration from Morocco to Europe on Women: a gender approach' (2004) (accessible [here](#)).

<sup>382</sup> UN Treaty Body Database, 'Morocco' (accessible [here](#)).

<sup>383</sup> ILO, 'Ratifications of C097 - Migration for Employment Convention (Revised), 1949 (No. 97)', (2021) (accessible [here](#)).

<sup>384</sup> ILO, 'Up-to-date Conventions and Protocols not ratified by Morocco' (accessible [here](#)).

<sup>385</sup> AU, 'OAU/AU Treaties, Conventions Signed by Morocco' (accessible [here](#)).

Morocco's Constitution provides that men and women enjoy, equality, in the rights and freedoms of civil, political, economic, social, cultural, and environmental character. Through the Constitution, the state commits itself to ban and combat all discrimination whenever it encounters it, for the reason of sex, or colour, of beliefs, of culture, of social or regional origin, of language, of handicap or whatever personal circumstance that may be. Further, Morocco's Constitution is relatively accommodating towards migrants. In terms of Article 30 (completed by Articles 40 and 41 of the Law No. 57-11), foreigners are able to vote in municipal elections,<sup>386</sup> and Article 16 stipulates that "the Kingdom of Morocco shall work to protect the legitimate rights and interests of Moroccan citizens living abroad, in accordance with international law and the laws in force in the host countries."<sup>387</sup>

In addition, Morocco has a few laws and decrees relevant for present purposes:

- **Decree No. 2-57-1256 of 1957:** This regulates the conditions for extradition and the granting of asylum in Morocco.<sup>388</sup> Various aspects of Morocco's immigration law framework appear to currently be in flux, with a draft asylum law in progress,<sup>389</sup> and numerous other recent amendments, particularly to regulations relating to refugees, having been implemented in recent years.<sup>390</sup>
- **Labour Code Act No. 65-99:** The employment of foreign workers is regulated by chapter V (employment of foreign workers) of Labour Code, article 516 of which stipulates that employers wishing to hire foreign workers must obtain authorisation from the government authority on labour matters.<sup>391</sup> However, the government has recently removed other barriers to the employment of foreign workers, such as a certification scheme for certain workers.<sup>392</sup>
- **Law No.02-03:** This regulates the entry and stays of foreigners in Morocco,<sup>393</sup> and the decree implementing the law was adopted on 1 April 2010 (Decree No. 2-09-607, published in Official Gazette No. 5836 of 6 May 2010).<sup>394</sup> The law explicitly recognises the authority of international conventions in the Moroccan legal system as it relates to migration.<sup>395</sup>

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<sup>386</sup> Constitute Project, 'Morocco's Constitution of 2011', (2011) (accessible [here](#)).

<sup>387</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Initial Report of Morocco', (2012) (accessible [here](#)).

<sup>388</sup> *Ibid.*

<sup>389</sup> ReliefWeb, 'Immigration Detention in Morocco: Still Waiting for Reforms as Europe Increases Pressure to Block Migrants and Asylum Seekers', (2021) (accessible [here](#)).

<sup>390</sup> UNHCR, 'Global Compact on Refugees: Morocco', (2021) (accessible [here](#)).

<sup>391</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Initial Report of Morocco', (2012) (accessible [here](#)).

<sup>392</sup> UNHCR, 'Global Compact on Refugees: Morocco', (2021) (accessible [here](#)).

<sup>393</sup> Morocco Official Bulletin, 'Loi n° 02-03 relative à l'entrée et du séjour des étrangers au Royaume du Maroc, à l'émigration et l'immigration irrégulières', (2003) (accessible [here](#)).

<sup>394</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Initial Report of Morocco', (2012) (accessible [here](#)).

<sup>395</sup> *Ibid.*



- **Family Code of 2004:** Known as the Moudawana, the Family Code secured important rights for Moroccan women, including the right to self-guardianship, the right to divorce, and the right to child custody.<sup>396</sup>
- **Penal Code of 2011:** Morocco's Penal Code remains categorical in its criminalisation of homosexual acts: According to Article 489 homosexual acts are a criminal offence punishable with six months to three years of imprisonment and a fine ranging from 200 to 1,000 Moroccan dirhams.<sup>397</sup> Of further concern, the Penal Code criminalizes sexual relations outside of marriage and does not define rape.<sup>398</sup>
- **Law No. 27.14 of 2016:** The Human Trafficking law was adopted by the Moroccan Parliament in August 2016, and aims to simplify the processes of investigation, data collection and prosecution and ensure better implementation of the Penal Code as it relates to human trafficking.<sup>399</sup>

### 3.5.3. Key stakeholders and institutional processes

Morocco has a series of government structures tasked with formulating and implementing migration policies. The Ministry Delegate to the Minister for Foreign Affairs and International Cooperation, in charge of Moroccans Abroad and Migration Affairs is responsible for conceiving and coordinating migration policies, and several ministries participate in the promulgation and implementation of cross-cutting aspects of migration policy (such as the Ministries of the Interior, Employment, Justice, Education, and Foreign Affairs and Cooperation).<sup>400</sup> In addition, the National Human Rights Council is in charge of monitoring the situation of migrants and refugees living in the Kingdom and publishes annual and periodic thematic reports. The Council of the Moroccan Community Abroad is in charge of following up and evaluating the country's public policies towards its citizens abroad.

On a more procedural level, the Ministry of Foreign Affairs — through its website — provides guidance on going abroad.<sup>401</sup> The Ministry of Labour and Professional Insertion has a dedicated web application (TAECHIR) which enables a system for managing visas for work contracts for foreign workers.<sup>402</sup> The Delegate Ministry in charge of Moroccans Living Abroad and Migration Affairs provides access to immigration information, relevant forms, and information about select programmes.<sup>403</sup>

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<sup>396</sup> Atlantic Council, 'Women's rights in Morocco: Balancing domestic and international law', (2017) (accessible [here](#)).

<sup>397</sup> Penal Code of 2011 (accessible [here](#)). The Penal Code is presently not available in English. See further the Ministry of Immigration and Integration, 'Morocco: Situation of LGBT persons - version 2.0', (2019) (accessible [here](#)).

<sup>398</sup> UN Women, 'Women and girls raise their voices to demand equality under the law in Morocco' (2021) (accessible [here](#)).

<sup>399</sup> UNHCR, 'Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 27th Session: Morocco', (2017) (accessible [here](#)).

<sup>400</sup> *Ibid.*

<sup>401</sup> Ministry of Foreign Affairs, 'Going Abroad' (accessible [here](#)).

<sup>402</sup> Ministry of Labour and Vocational Integration, 'E-services: Migration for Work' (accessible [here](#)). See further Global Compact for Migration & GIZ.

<sup>403</sup> Delegate Ministry in charge of Moroccans Living Abroad and Migration Affairs (accessible [here](#)).

Morocco has also taken several steps in recent years to enable access to the education system, labour market, public health services and social housing for regularised migrants and refugees and has held two campaigns to regularise migrants that led to the regularisation of large numbers of migrants.<sup>404</sup> Morocco also offers migrants a relatively favourable framework for obtaining long-term resident permits.<sup>405</sup>

#### 3.5.4. Gender norms and socio-economic context

In 2020, Morocco ranked 121<sup>st</sup> on the UN Development Programme Gender Inequality Index, scoring relatively well on maternal mortality and adolescent birth rates but low on measures of economic equality and participation (including the share of seats in Parliament held by women and secondary education levels).<sup>406</sup> The labour force participation rate of women in Morocco is particularly low, at only 21,5% compared to 70,1% for men.<sup>407</sup>

Similarly, Morocco ranks relatively low on the World Economic Forum (WEF) Global Gender Gap Index at number 144 out of 156 countries, a drop of one place from the year prior.<sup>408</sup> The country scores lowest on economic participation and opportunity (148<sup>th</sup>) and relatively well on educational attainment (116<sup>th</sup>) and political empowerment(113<sup>th</sup>)<sup>409</sup> Women make up only 5,4% of top management positions in the country and hold 11,7% of seats in the upper house of the legislature.<sup>410</sup> Women also face higher rates of unemployment, food insecurity and out of school children than men.<sup>411</sup>

While Morocco has a reputation as an open, tolerant, and progressive country, it continues to struggle with the lack of implementation of legal frameworks related to gender equality.<sup>412</sup> Articles 6 and 19 of the Moroccan Constitution of 2011 emphasize the equality of all citizens regardless of gender,<sup>413</sup> and the country's progressive Family Law (The legal marriage age also changed from 15 to 18 years of age, and women are no longer required to have a male guardian approve their marriage.<sup>414</sup>

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<sup>404</sup> IOM, 'Migration Governance Profile: Kingdom of Morocco', (2017) (accessible [here](#)) (IOM, Morocco), and UNHCR, 'Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 27th Session: Morocco', (2017) (accessible [here](#)).

<sup>405</sup> IOM, Morocco (above n 404)..

<sup>406</sup> UNDP, 'Gender Inequality Index', (2020) (accessible [here](#)).

<sup>407</sup> *Ibid.*

<sup>408</sup> WEF, 'Global Gender Gap Report 2021', (2021) (accessible [here](#)).

<sup>409</sup> *Ibid.*

<sup>410</sup> *Ibid.*

<sup>411</sup> UN Women, 'Morocco', (2020) (accessible [here](#)).

<sup>412</sup> Atlantic Council, 'Women's rights in Morocco: Balancing domestic and international law', (2017) (accessible [here](#)).

<sup>413</sup> Morocco's Constitution of 2011 (accessible [here](#)).

<sup>414</sup> *Ibid.*

Notably, despite progress being made to reduce discrimination against women through the Penal Code,<sup>415</sup> and a new law being passed on violence against women in 2018 (Law No. 103-13 on combatting violence against women), critics argue that significant legal gaps remain in the protection women's rights in Morocco.<sup>416</sup>

Economic needs and social traditions tend to favour antiquated female roles as early brides and domestic workers, and education and literacy among girls remain undervalued.<sup>417</sup> Many social pressures in Morocco to resist change in gender justice remain and tend to be greater in rural areas.<sup>418</sup> UN Women notes that women and girls aged 15+ spend 20,8% of their time on unpaid care and domestic work, compared to only 3% spent by men.<sup>419</sup>

A study carried out in 2010 by the Office of the High Commissioner for Planning showed that women are still vulnerable to violence: 48% have been subjected to psychological violence, 17,3% to violence related to the application of the law and 55% to domestic violence.<sup>420</sup>

With regards to migrants and refugees, the UNHCR notes that refugee women and girls are highly vulnerable to sexual violence and early marriage and that cases of GBV against refugee women have rarely resulted in cases being appropriately followed up through the judicial system.<sup>421</sup> The UN Human Rights Committee noted with concern in 2017 the continued existence of legislative provisions that discriminated against women, including in the areas of marriage, divorce, child custody, legal guardianship of children and the transmission of nationality to a foreign spouse.<sup>422</sup> Likewise, the Committee on Economic, Social and Cultural Rights highlighted the fact that Morocco has not yet abolished polygamy and the need to conduct awareness-raising campaigns to eliminate gender stereotypes in the country.

In 2018, the office of the Public Prosecutor decided to prosecute 170 individuals under accusation of homosexuality based on 147 registered cases according to figures made public by the *Ministère Public*. LGBTIQI persons continue to face social stigma and prejudice, and many have reported discrimination and lack of support from the police in dealing with incidents of violence. A part of the population in Morocco is fiercely hostile towards LGBTIQI persons and there have been public demonstrations against homosexuals, violent intrusions in private homes as well as public denunciations of presumed homosexual or transgender individuals.

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<sup>415</sup> UNHCR, 'Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 27th Session: Morocco', (2017) (accessible [here](#)) (UNHRC, Morocco).

<sup>416</sup> Human Rights Watch, 'Morocco: New Violence Against Women Law', (2018) (accessible [here](#)).

<sup>417</sup> Atlantic Council, 'Women's rights in Morocco: Balancing domestic and international law', (2017) (accessible [here](#)).

<sup>418</sup> *Ibid.*

<sup>419</sup> UN Women, 'Morocco', (2020) (accessible [here](#)).

<sup>420</sup> UNGA, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Morocco', (2012) (accessible [here](#)).

<sup>421</sup> UNHCR, 'Morocco (above n 415).

<sup>422</sup> UNHRC, 'Report of the Office of the United Nations High Commissioner for Human Rights: Compilation on Morocco', (2017) (accessible [here](#)).

In Morocco, consensual sex between adults who are not married to one another is punishable by up to one year in prison.<sup>423</sup> Article 490 of the penal code criminalizes extramarital sex, and Article 491 criminalizes adultery. In June 2019 report, the Office of the General Prosecutor stated that 7,721 adults were prosecuted for having non-transactional sexual relations outside of marriage in 2018.<sup>424</sup> Sex work is therefore strongly condemned in Morocco.

In relation to sex and labour trafficking, the Special Rapporteur on trafficking in persons found that “trafficking in women and girls for sexual exploitation has been increasing in Morocco, and prostitution networks are reportedly exploiting trafficked women and girls”.<sup>425</sup> The Special Rapporteur was further informed by civil society interlocutors that “some young women and girls from Côte d’Ivoire and Senegal were trafficked to Morocco and forced to do domestic work”. There appears to be a “growing number of foreign domestic workers, a significant proportion of whom is exposed to the risk of being trafficked by unlicensed agents and unscrupulous brokers.” The Special Rapporteur recorded that “most trafficked domestic workers are not paid, and those who are paid receive a tiny fraction of the wages promised. Their passports are seized, and payment is demanded for their return.”<sup>426</sup> It was further reported that “male victims of trafficking were subjected to forced or bonded labour, especially around the town of Oujda.”<sup>427</sup>

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<sup>423</sup> Human Rights Watch, ‘Human Rights Watch Submission to the Committee on the Elimination of Discrimination against Women on Morocco’, (2020) (accessible [here](#)).

<sup>424</sup> *Ibid.*

<sup>425</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, ‘Visit to Morocco’ (2014) at para 1 (accessible [here](#)).

<sup>426</sup> *Ibid* at para 3.

<sup>427</sup> *Ibid* at para 2.

### 3.6. COMESA

#### 3.6.1. Regional context through a gender and labour migration lens

The 21 member states of the Common Market for Eastern and Southern Africa Member States (COMESA) are: Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Eswatini, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.<sup>428</sup> COMESA's main focus is on the formation of a large economic and trading unit that is capable of overcoming some of the barriers that are faced by individual states, and its current strategy places a strong focus on regional integration.

Little reliable and current data on the scope of migration within COMESA is available. However, estimates are that the number of international migrants, including refugees, in the region in 2017 was around 8.67 million, and that the number of international migrants has been increasing in recent years.<sup>429</sup> Of these, 4.12 million were women migrants, slightly less than the 4.55 million men migrants in the region, with the number of women having grown more in recent years than for men.<sup>430</sup>

The region is characterised by mixed-migration movements, including high numbers of refugees and internally-displaced persons with some migration driven by economic factors. The number of working-age migrants in the COMESA region has increased significantly over years, growing from 3.56 million in 2008 to 6.54 million in 2017.<sup>431</sup> COMESA now accounts for the second-largest number of working-age international migrants amongst the eight RECs in Africa.<sup>432</sup> The number of international migrant workers has also increased over the recent past, reaching 4.76 million international migrant workers in 2017 of which 2.06 million are women, a number which grew at a rate of 88.8% since 2008 compared to a growth rate of 79.2% for men migrant workers in the same period.<sup>433</sup>

As the AU, COMESA and the JLMP Regional Migration Profile for COMESA in the second edition of the Labour Migration Statistics Report in Africa points out, many countries in the COMESA region are currently unable to provide statistics on the employment status, economic activity occupation and level of education of migrant workers within their borders.<sup>434</sup> For example, only Ethiopia and Eswatini were able to provide information on the economic activities of migrants, and only for the year 2016, and only Eswatini was able to provide information on occupation and professional categories of migrant workers. Seychelles reports that the employment-to-population ratio for

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<sup>428</sup> COMESA (accessible [here](#)).

<sup>429</sup> AU, COMESA and the JLMP, 'Labor Migration Statistics Report in Africa Second edition: Regional Migration Profile - Common Market for Eastern and Southern Africa (COMESA)', (2020).

<sup>430</sup> *Ibid.*

<sup>431</sup> *Ibid.*

<sup>432</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 54 (accessible [here](#)).

<sup>433</sup> *Ibid.*

<sup>434</sup> AU, COMESA and the JLMP, 'Labor Migration Statistics Report in Africa Second edition: Regional Migration Profile - Common Market for Eastern and Southern Africa (COMESA)', (2020).

the migrant population is higher than that for the general population at 73,7%, and that 28% of international migrant workers in the country are women.<sup>435</sup>

### 3.6.2. Labour migration and related gender policies and laws

The Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA Treaty) provides for the creation of a fully integrated, internationally competitive regional community within which goods, services, capital, and labour are free to move across borders.<sup>436</sup> Chapter 28 of the COMESA Treaty provides for the free movement of persons, labour, services, and the right of establishment and residence, and chapter 21 speaks to co-operation between the members with respect to labour laws. Most notably, chapter 24 deals comprehensively with women in development and business, highlighting that women make significant contributions towards the process of socio-economic transformation and sustainable growth and that it is impossible to implement effective programmes for rural transformation and improvements in the informal sector without the full participation of women. It calls for states to eliminate regulations and customs that are discriminatory against women and specific regulations and customs which prevent women from owning land and other assets, and to create an enabling environment for the effective participation of women in Common Market trade and development activities. Taken together, these two chapters arguably provide a solid foundation on which to build initiatives to maximise the economic contributions of women migrants and enable their full protection and inclusion in society.

The COMESA Protocol on the Free Movement of Persons, Labour, Services, the Right of Establishment, and Residence was adopted in 2001 by the COMESA Authority of Heads and States and is in the process of being signed and ratified.<sup>437</sup> Its objective is to remove all restrictions to the free movement of persons, labour, and services and to provide for the right of establishment and right of residence. Article 9 of the Protocol provides for Member States to remove all restrictions to the movement of labour within the Common Market, and abolish discrimination based on nationality between workers of the Member States as regards employment, remuneration, and other conditions of work employment.<sup>438</sup> It also explicitly provides that progressive steps should be taken to implement the Protocol in the fields of social security, labour laws and other working conditions.

Notably, the Protocol defines labour as only skilled labour of persons with specialised skills that are not available in a Member State, very narrowly constraining the free movement of labour.<sup>439</sup> This is also likely to have significant effects for women migrants who face gender discrimination in accessing the education and experience necessary to meet the definition of 'skilled labour.' It also, in Article 4, provides for the non-discrimination of citizens on the grounds of gender but provides no further guidance on ensuring gender equality within migration. It should be noted

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<sup>435</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 34 (accessible [here](#)).

<sup>436</sup> Treaty Establishing the Common Market for Eastern and Southern Africa, (1981) (accessible [here](#)).

<sup>437</sup> *Ibid*.

<sup>438</sup> COMESA, 'COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence', (1998) (accessible [here](#)).

<sup>439</sup> *Ibid* at Article 1.

that the Protocol excludes family members of migrants unless they qualify in their own right, which is likely to amplify the gendered consequences given the above-mentioned gaps in educational and employment outcomes of women which persist in the region.

However, implementation of the Protocol has been slow, with only four countries having signed it and only one ratifying (Burundi).<sup>440</sup> Nevertheless, as of 2018, it was noted that Kenya, Mauritius, Rwanda, and the Seychelles had reached the highest level of implementation of the Protocol.<sup>441</sup> For example, as a result of greater openness, African travellers made up over a quarter of visitors to Mauritius in 2014, and African travellers to Rwanda increased by 22 per cent in 2014.<sup>442</sup>

The COMESA Protocol relating to the Gradual Relaxation and Eventual Elimination of Visa Requirements within COMESA (the Visa Protocol) was adopted and signed by the Authority of Heads of State and Government in 1984, and is intended, in particular, to facilitate the movement of businesspersons within COMESA.<sup>443</sup> It remains in force only until such time as the Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence enters into force.<sup>444</sup> The protocol is premised on two key elements: a ninety-day visa-free regime and access to visas on arrival. Kenya, Madagascar, Malawi, Mauritius, Rwanda, Eswatini, Seychelles, Uganda, Zambia, and Zimbabwe are to a large extent implementing the Protocol, by providing ninety-day visa access and access to visa on arrival to at least half of the COMESA Member states.<sup>445</sup> Mauritius, Rwanda, Seychelles have totally waived visa requirements to all COMESA citizens, and in 2013, Zambia issued a circular waiving visas and visa fees for all COMESA citizens on official business.<sup>446</sup>

Implementing the two Protocols remained a part of the COMESA Strategic Plan for 2016-2020, with the relevant target being the number of Member States implementing more than 50% of the provisions of the Protocol on Visa Relaxation.<sup>447</sup> Strategic Objective 7 of the Strategic Plan related to fostering gender equality and social development, and highlighted the need for people-centred regional development interventions that take into consideration values of social justice, inclusiveness, participation, and sustainability through gender equality, the empowerment of women and youth, protection and promotion of the rights of the vulnerable groups.<sup>448</sup> Although the strategy included some elements relevant to the current discussion, such as targeting the collection of data and supporting women's economic activities, none of the activities specifically referred to migration or the gender dynamics of migration.

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<sup>440</sup> Imani Development, 'Facilitating the free movement of people in Africa', (2020 (accessible [here](#))).

<sup>441</sup> IOM and COMESA, 'Free Movement of Persons in the Common Market for Eastern and Southern Africa (COMESA): Trainers Manual', (2017) (accessible [here](#)).

<sup>442</sup> *Ibid.*

<sup>443</sup> COMESA, 'COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements', (accessible [here](#)).

<sup>444</sup> IOM and COMESA, 'Free Movement of Persons in the Common Market for Eastern and Southern Africa (COMESA): Trainers Manual', (2017) (accessible [here](#)).

<sup>445</sup> *Ibid.*

<sup>446</sup> *Ibid.*

<sup>447</sup> COMESA, 'Medium Term Strategic Plan 2016-2020', (2020) at p. 49 (accessible [here](#)).

<sup>448</sup> *Ibid* at p. 32.

Finally, three COMESA countries, Comoros, the DRC, and Madagascar, are members of the Inter-African Conference on Social Insurance (CIPRES) of 1996, a multilateral social security agreement that covers old age, disability death, employment injury, maternity, sickness, and family benefits.<sup>449</sup> Burundi, the DRC, and Rwanda are also members of the *Convention Générale de la Sécurité sociale entre la République du Zaïre, la République Rwandaise et la République du Burundi* (CEPGL) of 1978.<sup>450</sup>

### 3.6.3. Key stakeholder and institutional processes

COMESA is in the process of implementing a number of migration-related institutional processes that are of relevance to the discussion on mainstreaming gender in migration policy.

First, in 2019, COMESA announced the development of a Cross Regional Programme for Southern Africa to address irregular migration and promote regular labour mobility within the region to spur regional trade and investment.<sup>451</sup> One of the key issues to be addressed under the programme is the mutual recognition of qualifications across the region, something which can affect women by preventing their entry into the labour force in countries of destination. Poor recognition of qualifications can also serve to perpetuate the gender pay gap because women migrants tend to work in under-recognised or ignored sectors and because women are less likely to work in formal and professionalized industries in which the recognition of qualifications has already been worked out between countries. Another issue which seems likely to be addressed under the project is that human trafficking and smuggling, which also disproportionately affects women migrants.<sup>452</sup>

COMESA is also implementing the Southern African Migration Management Project (SAMM) in collaboration with the ILO, IOM, the UN Office on Drugs and Crime, and the UN High Commissioner for Refugees.<sup>453</sup> The project is expected to run until December 2023, and is aimed at improving the policy environment for labour migration across the region, providing improved access to legal and efficient means of labour mobility for labour migrants, and strengthening decision-making and management of mixed migration flows including, notably, the protection of vulnerable migrants in the Southern African and Indian Ocean region.<sup>454</sup> It is unclear, but hoped, that the definition of vulnerable migrants would include women.

Further, COMESA is working with the AUC and Statistics Sweden to implement the Developing Capacity in Migration Statistics project<sup>455</sup> to augment national capacity in migration data collection for the effective management of migration. COMESA's 2020 Annual Report highlights the progress made, in particular, in engendering data collection on small-scale cross-border

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<sup>449</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 51 (accessible [here](#)).

<sup>450</sup> *Ibid.*

<sup>451</sup> COMESA, 'Programme to Boost Labour Migration is Underway', (2019) (accessible [here](#)).

<sup>452</sup> *Ibid.*

<sup>453</sup> COMESA, 'Region Needs to Focus more on Border Facilitation and less on Controls', (2021) (accessible [here](#)).

<sup>454</sup> ILO, 'Southern Africa Migration Management (SAMM) Project', (accessible [here](#)).

<sup>455</sup> COMESA, 'Region Needs to Focus more on Border Facilitation and less on Controls', (2021) (accessible [here](#)).



trading, an issue which largely affects women who trade daily across borders.<sup>456</sup> However, it is unclear whether the project extends further to migration statistics more broadly.

Another project of relevance is the COMESA-MIEUX+ International Center for Migration Policy Development (ICMPD/EU) Migration Project in addressing Challenges Posed by the COVID-19 Pandemic, which is focused on providing support for the management of migration and mobility in the framework of a health crisis, particularly at border points.

COMESA is also implementing the Migration Dialogue from the Common Market for Eastern and Southern Africa Member States (MIDCOM), in collaboration with the IOM, which aims to provide a platform for informal and non-binding dialogue on issues and opportunities related to migration management thereby improving the capacity of the governments to better manage migration, network building through regular meetings, including substantial progress towards harmonized data collection systems and harmonized immigration policy and legislation.<sup>457</sup> It is unclear if this project is ongoing, as the last documented meeting occurred in July 2017.<sup>458</sup>

Finally, it must be noted that within the context of its engagement with the JLMP COMESA has committed to implementing four key programs related to labour migration:<sup>459</sup>

- Working with small scale cross border traders;
- Enhancing the capacity of border officials to be able to deal with issues of migration;
- Implementing a project on promoting regular labour migration in Southern Africa between COMESA and SADC, which includes establishing a regional database and related information-sharing mechanisms, engaging with other RECs to ensure the synergy and complementarity of migration projects in the region, and enhancing dialogue on awareness creation and sensitisation on the nexus between labour migration and development;
- Working on the region's ability to join the AUC Statistics Project.

#### 3.6.4. Gender norms and socio-economic context

COMESA has formalised efforts to encourage gender equality in the region through its Gender and Social Affairs Division, particularly through implementing the COMESA Gender Policy.<sup>460</sup> The Gender Policy was adopted at the 7th COMESA Summit of the Heads of State and Government in Addis Ababa, Ethiopia in 2002, and advocates for the equal and full participation of women in all aspects of COMESA activities.

Again, the Gender Division displays a marked emphasis on enabling cross-border small-scale trade, focusing on ensuring the availability of gender statistics, the construction of gender-sensitive border infrastructure and facilities, strengthening associations and cooperatives for

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<sup>456</sup> COMESA, 'Annual Report', (2020) at p. 40 (accessible [here](#)).

<sup>457</sup> IOM, 'Migration Dialogue From The Common Market For Eastern And Southern Africa Member States (MIDCOM)', (accessible [here](#)).

<sup>458</sup> *Ibid.*

<sup>459</sup> African Union, 'Minutes: JLMP Steering Committee'.

<sup>460</sup> COMESA, 'Gender & Social Affairs', (accessible [here](#)).

Unfortunately, the COMESA Gender Policy appears not to be publicly accessible, and we were therefore unable to review it.

cross border traders, improvement, and implementation of trade facilitation tools on SSCBT, and addressing harassment and gender-based violence at the borders. This initiative is dealt with under the Comprehensive Framework for the Support of Women and Youth Cross-border Traders.<sup>461</sup>

This existence of the Division and the Gender Policy provides a foundation on which to enable the more extensive participation of women migrants in policymaking within the COMESA region. Because the COMESA region spans an exceptionally wide geographical area as well as multiple regions, language groups, ethnic groups, and countries, it is difficult to conduct an evaluation of gender norms in the region as they are likely to vary substantially. Socio-economic indicators are likely to give a much clearer picture of the state of gender equality within the region.

COMESA performs relatively poorly on women's participation rates in the labour force relative to other RECs, sitting at around 40% compared to, for example, close to 50% of the labour force being women in the East African Community.<sup>462</sup> Measured a different way, 47.4% of women in COMESA countries participate in the labour force, compared to 75% in the EAC.<sup>463</sup>

According to COMSTAT, COMESA's data hub, only 23% of COMESA parliamentarians and less than 20% of COMESA Ministers are women, and there is currently only one woman in the highest echelons of power in the COMESA region.<sup>464</sup> This may, speculatively, imply that gender norms and expectations about women in positions of power remain regressive. Nevertheless, it appears that female representation in ministerial portfolios in the region increased between 2012 and 2015, the period under review by COMESA, and that the use of gender quotas in some countries has improved the election of women. COMSTAT notes that:<sup>465</sup>

The country with the least representation is Libya with only 3,6% of national parliamentarians being women, as well as Djibouti and Democratic Republic of Congo with 5,3% and 8,1% respectively. Rwanda (35,5%) continues to hold poll position in the region for female Ministers followed by Burundi (34,8%), Uganda and Swaziland with 29,6% and 26,3% respectively.

Representation remains low in the private sector as well, with only about half of countries in the COMESA region having shares of women in managerial positions of 30% or more, and none reaching or surpassing parity. The gender composition of executive boards of private companies is likewise unequal.

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<sup>461</sup> COMESA, 'Framework for the Comprehensive Support for Women and Youth Cross Border Traders in the COMESA Region', (2018) (accessible [here](#)).

<sup>462</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 25 (accessible [here](#)).

<sup>463</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 27 (accessible [here](#)).

<sup>464</sup> COMSTAT, 'Gender and Social Affairs', (2018) (accessible [here](#)).

<sup>465</sup> *Ibid.*

### 3.7. ECCAS

#### 3.7.1. Regional context through a gender and labour migration lens

The Economic Community of Central African States (ECCAS) was established in 1983 and began functioning in 1985.<sup>466</sup> ECCAS comprises 11 members: Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Equatorial Guinea, Gabon, Republic of the Congo, and São Tomé and Príncipe.<sup>467</sup> ECCAS' objective is the creation of a region peace, prosperity and solidarity based on a unified economic and political space where each citizen moves freely in order to ensure sustainable and balanced development. Gender and Human Development constitutes one of the five pillars of the ECCAS Commission.

The number of migrants in the ECCAS region has been steadily growing in recent years, from 2.3 million in 2008 to 4.3 million in 2017.<sup>468</sup> Women made up nearly half the figure in 2017, at 2.1 million compared to 2.18 million men migrants.<sup>469</sup> The gender gap shows up more significantly in international migrant workers: in 2017, there were a total of 1.04 million female international migrant workers in the region compared to 1.3 million male international migrant workers.<sup>470</sup>

Although the third edition of the Labour Migration Statistics Report highlights that many countries in the ECCAS region were not able to provide statistics on the employment status, economic activity, and occupation of migrant workers, it did report that the employment-to-population ratio in Cameroon sits at 63.1% (compared to 68.3% for the general population) and at an unusually low 26.2% for Chad, compared to 57.6% for the general population.<sup>471</sup>

Various other information about the status of migrant workers is only available for Chad and Cameroon.<sup>472</sup> Since Cameroon is dealt with specifically above, we do not repeat those figures here. With regards to Chad, 41.6% of international migrant workers in employment in the country were women in 2018, and a vast majority of the total population is employed as own-account workers. Unfortunately, the break-down of status for migrants is not given for individual countries.

Detailed information migration stocks and flows with relation to Burundi is provided by the ILO Social Protection Data Dashboard.<sup>473</sup> The total number of migrants in the country sits at 290,000 (around 2.8% of the population) with a large proportion coming from the DRC and a smaller proportion from Rwanda and Tanzania. The majority of international women migrants in the country are of working age, and the economic activities with the highest percentage of employed non-citizens are agriculture, forestry, and fishing (at 28.6%) and wholesale and retail trade and repair of motor vehicles and motorcycles (at 19.3%).

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<sup>466</sup> AU, 'Economic Community of Central African States (ECCAS)', (accessible [here](#)).

<sup>467</sup> ECCAS Website (accessible [here](#)).

<sup>468</sup> Labor Migration Statistics Report in Africa Second Edition: Regional Migration Profile', (accessible [here](#)).

<sup>469</sup> *Ibid.*

<sup>470</sup> *Ibid.*

<sup>471</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 34 (accessible [here](#)).

<sup>472</sup> *Ibid.*

<sup>473</sup> Accessible [here](#).

### 3.7.2. Labour migration and related gender policies and laws

The Treaty Establishing the Economic Community of Central African States provides in Article 40 for freedom of movement, residence and right of establishment, a principle which is further elaborated on in the Protocol on Freedom of Movement and Rights of Establishment of Nationals of Member States within the Economic Community of Central African States.<sup>474</sup> Articles 4 and 40 of the Treaty establish the right of ECCAS nationals to move and reside freely in any ECCAS Member State. Article 2 lays out the definition and conditions of the ECCAS membership as they relate to movement, entry/exit, and stay of nationals as well as other categories of persons. Article 3 covers the freedom of movement for workers while Article 4 refers to the freedom of establishment of ECCAS nationals. Although the Protocol allows for the movement of workers and the establishment of self-employed persons, limitations exist under national legislation and regulations in each ECCAS Member State, and the Protocol appears to provide only for the free movement of tourists, businesspersons and those travelling for non-paid artistic or liberal activities.<sup>475</sup> Further, implementation has been limited with countries highlighting security issues as a key reason delaying implementation.<sup>476</sup> However, mobility provisions for non-citizens can be found within certain bilateral free movement agreements between ECCAS Member States and third states, such as the Agreement between Cameroon and Mali.<sup>477</sup>

The Treaty also calls on states in Article 60 to take steps to progressively harmonise labour laws, social security systems and civil status laws and regulations. The Protocol was reinforced by subsequent ECCAS Decisions and policy, none of which have been fully implemented:<sup>478</sup>

- Decision n° 03/CCEG/VI/90 (1990) which calls for 90-day visa-free entry for certain categories of people, including tourists, professionals, and students;
- The Convention on Cooperation and Mutual Legal Assistance (2006) provided the legal framework to facilitate implementation of the Freedom of Movement Protocol;
- A regional migration policy was drafted in 2013 but not subsequently implemented.

ECCAS has struggled to implement the integration objectives of its founding treaty due to the slow transposition of ECCAS texts into domestic legislation and the persistence of national legislation that runs counter to the community's objectives.<sup>479</sup> To date, it also appears that ECCAS has focused predominantly on lowering trade and non-trade barriers within the region, with less focus on migration policy. Currently, no ECCAS member state provides visa-free entry for all

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<sup>474</sup> ECCAS, 'Treaty Establishing the Economic Community of Central African States', (1983) (accessible [here](#)).

<sup>475</sup> IOM, 'International Dialogue On Migration Intersessional Workshop On Free Movement Of Persons In Regional Integration Processes', (2007) (accessible [here](#)).

<sup>476</sup> CEEAC, 'Protocole relatif à la libre circulation et au droit d'établissement des ressortissants des états membres de la communauté économique des états de l'Afrique centrale', (1983) at Article 2(2)(c) (accessible [here](#)).

<sup>477</sup> IOM, 'International Dialogue On Migration Intersessional Workshop On Free Movement Of Persons In Regional Integration Processes', (2007) (accessible [here](#)).

<sup>478</sup> Migration Data Portal, 'Migration data in Middle Africa', (accessible [here](#)).

<sup>479</sup> EU, 'La Zone de Libre Echange de la CEEAC', (accessible [here](#)).

ECCAS citizens, however, visa reciprocity has improved from 11% in 2017 to 29% in 2019 (although the reciprocity rate remains low among RECs in Africa).<sup>480</sup>

9 of ECCAS' 11 members are parties to the CIPRES and Burundi and the DRC are also party to the CEPGL,<sup>481</sup> the two multilateral social security agreements in Africa previously mentioned.

### 3.7.3. Key stakeholders and institutional processes

A number of ongoing projects related to migration exist within the ECCAS region. The Migration Dialogue for Central African States (MIDCAS) is a project with the IOM that has the objective of promoting the common interests of ECCAS member states to facilitate consultations and intra-regional cooperation on migration issues within the ECCAS region as well as with other AU RECs.<sup>482</sup> MIDCAS was established in 2012, endorsed formally in 2014 and adopted by the Economic Community of Central African States (ECCAS) in 2015. MIDCAS aims to develop a common position on migration among ECCAS Member States; promote experience and information sharing; identify priority issues on technical cooperation, capacity building and data collection. Amongst its various focus areas are included combatting human trafficking and smuggling, as well as the protection of migrants' rights.

In 2021, ECCAS and the UN Capital Development Fund announced the launch of a new project intended to expand affordable and convenient access to digital remittances in the region,<sup>483</sup> a key issue of relevance to women migrant workers who often struggle to access more traditional mechanisms for sending remittances due to lack of access to information and low financial literacy levels.

ECCAS is also currently implementing a project in collaboration with GIZ called the "ECCAS Border Programme: promoting border governance and regional cooperation," which seeks to improve regional and national border governance by developing and implementing strategies based on human rights.<sup>484</sup>

### 3.7.4. Gender norms and socio-economic context

The labour force participation rate in the ECCAS region demonstrates the gender gap that currently exists, with 59.8% of men participate in the labour force compared to only 41.8% of women.<sup>485</sup>

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<sup>480</sup> Migration Data Portal, 'Migration data in Middle Africa', (accessible [here](#)).

<sup>481</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 51 (accessible [here](#)).

<sup>482</sup> IOM, 'The Migration Dialogue for Central African States (MIDCAS)', (accessible [here](#)).

<sup>483</sup> UNCDF, 'ECCAS and UNCDF Announce Agreement to Strengthen Financial Services for African Migrants and Families', (2021) (accessible [here](#)).

<sup>484</sup> GIZ, 'ECCAS Border Programme: promoting border governance and regional cooperation', (2021) (accessible [here](#)).

<sup>485</sup> AU, COMESA and the JLMP, 'Labor Migration Statistics Report in Africa Second edition: Regional Migration Profile - ECCAS', (2020).

At the 11th Ordinary Session of Heads of State and Government of ECCAS in Brazzaville in January 2004, ECCAS adopted a declaration on gender equality.<sup>486</sup> The Policy recommends increasing the effectiveness of regional, national and community dialogues and encourages the expansion of gender-based planning and budgeting tools, as well as broad participation in the ratification, integration and effective application of legal and political instruments aimed at eliminating structural and systemic constraints.<sup>487</sup> ECCAS also has a Plan of Action on the Cross-border Commerce of Women.<sup>488</sup>

Further, ECCAS members also signed the N'Djamena Declaration in 2014 to reaffirm the bloc's regional and international commitments to women, peace, and security, committing to promote women's leadership and political participation and to mainstream gender equality.<sup>489</sup>

ECCAS created a unit tasked with coordinating human trafficking activities under the Human Security Directorate in Central Africa, but it is not yet fully operational, and also jointly with ECOWAS produced a Plan of Action against human trafficking, especially women and children in West and Central Africa, which was adopted in 2006.<sup>490</sup>

Again, the existence of these policies and initiatives at the ECCAS level bodes well for opportunities to further mainstream gender into the migration policies of the community.

The number of women in the ECCAS region has increased significantly in recent years, growing from 68.1 million in 2008 to 92.7 million in 2017, as has the number of working age women in the region.<sup>491</sup> However, ECCAS has one of the lowest relative shares of women participating in the labour force on the continent, sitting at around 41% of the total labour force, and with only 41,8% of women participating in the labour force.<sup>492</sup>

According to the Africa Development Group Gender-related development index, the situation of women in the ECCAS region experienced dramatic improvements from 2007 onwards, with the region's index scoring rising from 0,41 in 2007 to 0.83 in 2013.<sup>493</sup>

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<sup>486</sup> AU, 'Economic Community of Central African States (ECCAS)', (accessible [here](#)).

<sup>487</sup> ECCAS, 'Action Plan For Implementation of the Central Africa Gender Responsive Regional Strategy for Risk Prevention, Disaster Management and Climate Change Adaptation', (2020) (accessible [here](#)). The Gender Policy is accessible [here](#).

<sup>488</sup> ECCAS, 'La CEEAC et l'ONU Femmes, Pour une Coopération Accrue', (2021) (accessible [here](#)).

<sup>489</sup> ECCAS, 'Action Plan For Implementation of the Central Africa Gender Responsive Regional Strategy for Risk Prevention, Disaster Management and Climate Change Adaptation', (2020) (accessible [here](#)).

<sup>490</sup> European Commission, 'JRC Technical Reports: Regional Migration Governance in Africa: AU and RECs', (2018) (accessible [here](#)).

<sup>491</sup> Labor Migration Statistics Report in Africa Second edition: Regional Migration Profile', (accessible [here](#)).

<sup>492</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 25 (accessible [here](#)).

<sup>493</sup> COMSTAT, 'ECCAS - Gender-related development index (GDI)', (2013) (accessible [here](#)).

## 4. THE JLMP STRATEGIC FRAMEWORK

The JLMP Strategic Framework 2020-2030 provides an adjusted response with a 10-year-strategic vision, which allows for clarity and coherence around the progress in the implementation of the first five-year period of the JLMP from 2015 – 2019 and supports the achievement of the labour migration aspects of several global and continental policy and strategic frameworks over ten years starting from 2020.

Gender is identified as a cross-cutting policy issue in the JLMP Strategic Framework,<sup>494</sup> and is incorporated in the Performance Management Framework in the following ways:

- Outcome 1: Target 5 indicates the achievement of gender-responsive national labour migration policies in 5 selected Member States;
- Output 1.1. incorporates the increased adoption and implementation of gender-responsive labour migration policies but does not specify outcomes specific to gender or ways of measuring the degree to which policies developed are indeed gender-responsive.

Other Outcomes do not explicitly refer to gender targets or incorporate gender in the achievement of the JLMP Strategic framework.

### 4.1. Effective Governance and Regulation (Strategic Objective 1)

Objective 1 of the JLMP Strategic Framework is to strengthen the effective governance and regulation of labour migration and mobility in Africa. This objective therefore speaks to the “insufficient ratification, domestication and mainstreaming of international labour standards; slow implementation of free circulation regimes where these are defined; insufficient capacity, coordination and policy involvement on migration by labour institutions and a generalized absence of coherent national labour migration policy; insufficient tripartite consultative mechanisms for labour migration advocacy and insufficient ratification, domestication and mainstreaming of international labour standards; and slow implementation of free circulation regimes where these are defined.”<sup>495</sup>

To evaluate this objective, we must therefore ask the following question: to what extent do the objectives of the JLMP adhere to or support international rights frameworks that offer a gendered lens on labour migration and instil protections for women and gender minority migrant workers?<sup>496</sup>

#### 4.1.1. Revised Migration Policy Framework for Africa and Plan of Action (2018-2030) (MPFA)

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<sup>494</sup> JLMP, ‘Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)’, (2020) at p. 36 (accessible [here](#)).

<sup>495</sup> JLMP, ‘Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)’, (2020) at p. 29 (accessible [here](#)).

<sup>496</sup> A full evaluation of the adoption and ratification status of AU treaties, conventions, protocols and charters relevant to migration can be found on page 12 of the Africa Migration Report [here](#).

The MPFA was adopted in 2018 and offers a strategic framework to guide AU Member States and RECs in the management of migration. It provides a comprehensive, though high-level, set of recommendations to give particular attention to safeguarding the rights of migrant women and providing them access to protection. It recommends, amongst other things, integrating a gender perspective in all national and regional migration management policies, strategies and programmes, encouraging the development of safe and regular migration channels for employment purposes, ensuring efforts to address the root causes of irregular migration take a gender-responsive approach, improving the state of knowledge and awareness of gendered dimensions of migration in Africa, and supporting associations of migrant women to enhance their voice in policy dialogue processes.<sup>497</sup> It also speaks to the need to take effective steps against migrant trafficking and smuggling, to ensure adequate treatment and access to justice for all migrants, and to promote information campaigns that raise awareness of the gender dimensions of migration.

Member States and RECs should be encouraged to enact national and regional laws and policies that implement the various recommendations made in the MPFA, and to conduct research and implement further initiatives as indicated in the MPFA. Observers note that the domestication of its provisions is currently occurring too slowly.<sup>498</sup>

#### 4.1.2. Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (the Protocol on Free Movement of Persons)

To date, while the Protocol has received 32 signatures, only four countries have ratified it (none of which are the target countries for the purposes of this project) meaning it has not yet entered into force, and severely limiting its efficacy.<sup>499</sup>

The gender-related provisions of the Protocol could hardly be more scant. Article 4 contains a non-discrimination clause, requiring States not to discriminate against nationals of another Member State on the basis of sex (amongst other characteristics), and provides that migrants will enjoy the protection of the laws of the destination country which they are in.<sup>500</sup> Beyond Article 4, the Protocol provides no additional guidance or protection for women migrants and takes no further steps to acknowledge the gender-related dimensions of migration.

Member States will need significant further support and encouragement to implement this protocol, including removing national laws and policies that work counter to its objectives. Given that it falls far short in meeting the requirements for a gender-sensitive instrument, questions

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<sup>497</sup> African Union, 'The Revised Migration Policy Framework for Africa and Plan of Action (2018 - 2027)', (2018) (accessible [here](#)).

<sup>498</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 5 (accessible [here](#)).

<sup>499</sup> African Union, 'List of Countries Which Have Signed, Ratified/Accessed to The Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment', (2019) (accessible [here](#)). 15 ratifications are required for the Protocol to enter into force.

<sup>500</sup> Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (2018) (accessible [here](#)).



should be raised about mechanisms to make progress in this regard, either internal to implementation of the Protocol or external to it.

#### 4.1.3. African Continental Free Trade Area Agreement (AfCFTA)

The Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment and the African Continental Free Trade Area Agreement (AfCFTA) was adopted in 2018 and entered into force in May 2019. It has been signed by 54 of the 55 AU states (Eritrea being the outlier) and ratified by 36.<sup>501</sup>

The AfCFTA highlights the importance of removing obstacles to the free movement of persons in Africa, and the contribution of free movement of persons to facilitating trade and investment, creating employment, increasing remittances, and improving the standards of living of the people of Africa.<sup>502</sup> Article 3 also emphasises that non-discrimination undergirds the objectives of the AfCFTA, including on sex, and Article 14 states that persons should have the right to seek and accept employment in member states without discrimination. It is therefore imperative that efforts to implement the AfCFTA adopt gender-sensitive policies in order to give effect to this crucial principle.<sup>503</sup>

In the context of the AfCFTA, it is also worth noting that women comprise the vast majority of informal cross-border traders in Africa, who are disproportionately affected by non-tariff barriers and inadequate policy regulation catering to their particular needs.<sup>504</sup> These traders therefore stand to benefit from the implementation of the AfCFTA.

#### 4.1.4. ILO Conventions C-97, C-143, C-87, C-181 and C-189

Of the various relevant ILO Conventions, most do not contain an explicit reference to women migrant workers or gender-specific protections. For example, clause 6 of ILO Convention C-97 — the Migration for Employment Convention — provides only a standard non-discrimination clause prohibiting discrimination on the basis of sex between migrants and nationals.<sup>505</sup> The Convention nevertheless does provide important protections for the rights of migrant workers, such as by mandating that states maintain free services to assist migrants with employment, and take steps to prevent misleading propaganda relating to emigration and immigration. The Convention entered into force in 1952 with 53 countries having since ratified it, including 13 African states (including Burkina Faso, Cameroon, Comoros, Kenya, Madagascar, Malawi, Mauritius, Morocco, Nigeria, Sierra Leone, Somalia, Tanzania, and Zambia).<sup>506</sup> While this is commendable, we note that many African countries have not yet ratified it. Considerations may also be made for how to

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<sup>501</sup> African Union, 'List of Countries Which Have Signed, Ratified/Acceded to the Agreement Establishing the African Continental Free Trade Area', (2021) (accessible [here](#)).

<sup>502</sup> African Union, 'Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment and the African Continental Free Trade Area Agreement', (2018) (accessible [here](#)).

<sup>503</sup> Agreement Establishing the African Continental Free Trade Area, (2018) (accessible [here](#)).

<sup>504</sup> ECDPM, 'A 'business unusual' approach for gender equality under the AfCFTA', (2020) (accessible [here](#)).

<sup>505</sup> ILO, 'C097 - Migration for Employment Convention (Revised), 1949 (No. 97)', (1949) (accessible [here](#)).

<sup>506</sup> ILO, 'Ratifications of C097 - Migration for Employment Convention (Revised), 1949 (No. 97)', (2021) (accessible [here](#)).

integrate a gender-equality perspective into the provisions of this important and foundational Convention.

Convention C-143 — the Migrant Workers (Supplementary Provisions) Convention — also provides no explicit mention of gender-related dimensions of migration, and mandates states only to respect the basic human rights of all migrant workers,<sup>507</sup> in addition to Convention C-87.<sup>508</sup> Again, efforts to mainstream gender within the provisions of these Conventions would make significant progress in defending and protecting the rights of women migrant workers. For example, Convention C-87 protects the rights of workers to freedom of association but does not address the particular challenges faced by women migrant workers in associating freely, such as the lack of mobility and societal constraints often imposed on domestic workers. C-143 has been ratified by 28 countries including 11 African countries (Burkina Faso, Cameroon, Comoros, Guinea, Kenya, Madagascar, Mauritania, Sierra Leone, Somalia, Togo, and Uganda).<sup>509</sup> C-87 has enjoyed much more widespread support with ratifications in 157 countries including 48 African countries.<sup>510</sup>

Convention C-181, the private employment agencies convention, likewise includes a relatively general anti-discrimination clause requiring that Member States ensure that private employment agencies treat workers without discrimination on the basis of sex, amongst other characteristics, with no more specific gender-related provisions.<sup>511</sup> C-181 entered into force in 2000 and has received 37 ratifications, including 10 African countries (of which Morocco and Ethiopia from the target countries should be noted).<sup>512</sup>

Finally, Convention C-189, the Domestic Workers Convention, recognises the disproportionate effect on women of the continued undervaluing of domestic work, and their vulnerability to discrimination and human rights abuses. As such, it seeks to include domestic workers in the scope of labour laws and regulations, to prevent abuse, harassment and violence and promote fair terms of employment and promote decent working conditions for migrant workers, including social protection.<sup>513</sup> C-189 came into effect in 5 September 2013 and was hailed as a landmark for domestic workers rights,<sup>514</sup> but has so far been ratified by only 6 African states: Guinea, Madagascar, Mauritius, Namibia, Sierra Leone and South Africa (note that the Convention will only enter into force for Namibia in December 2021 and for Sierra Leone in August 2022).<sup>515</sup> African states must be pressed to ratify C-189 in order to provide adequate protection for the many vulnerable migrant workers who work in the informal economy doing domestic work.

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<sup>507</sup> ILO, 'C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)', (1975) (accessible [here](#)).

<sup>508</sup> ILO, 'C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)', (1948) (accessible [here](#)).

<sup>509</sup> ILO, 'Ratifications of C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)', (2021) (accessible [here](#)).

<sup>510</sup> ILO, 'Ratifications of C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)', (2021) (accessible [here](#)). The only target country not to have the Convention in force is Morocco.

<sup>511</sup> ILO, 'C181 - Private Employment Agencies Convention, 1997 (No. 181)', (1997) (accessible [here](#)).

<sup>512</sup> ILO, 'Ratifications of C181 - Private Employment Agencies Convention, 1997 (No. 181)', (2021) (accessible [here](#)).

<sup>513</sup> ILO, 'C189 - Domestic Workers Convention, 2011 (No. 189)', (2011) (accessible [here](#)).

<sup>514</sup> ILO, 'Landmark treaty for domestic workers comes into force', (2013) (accessible [here](#)).

<sup>515</sup> ILO, 'Ratifications of C189 - Domestic Workers Convention, 2011 (No. 189)', (2021) (accessible [here](#)).

In summary, while efforts to mainstream gender into the various relevant ILO conventions would be impactful, there are also low-hanging opportunities to push for wider ratification of conventions that would already provide a baseline level of protection for all migrant workers, most notably C-189, but also C-143 and C-97.

#### 4.1.5. UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

The ICRMW was adopted by the UN General Assembly (UNGA) in 1990 and entered into force in 2003.<sup>516</sup> Article 7 of the ICRMW mandates states to ensure that all migrant workers receive the protections of the Convention regardless of sex (and other characteristics), and in general protects the fundamental rights of migrant workers such as free movement, protection from slavery, servitude or forced labour, and freedom of expression and religion.<sup>517</sup> Again, however, there is distinct lack of gender-sensitivity in the Convention's provisions, with no specific acknowledgement of the particular risks and vulnerabilities faced by either women migrants or those from gender minorities. Of the target countries for our purposes, only Cameroon and Morocco have signed and ratified the ICRMW respectively.<sup>518</sup> While further ratification of the ICRMW should therefore be encouraged, there is also need for further efforts to introduce a more gender-responsive lens into international agreements affecting the rights of migrant workers.

General Comments No. 1 on Migrant Domestic Workers and No. 2 on the rights of migrant workers in an irregular position also provide valuable further elaboration on the ICRMW. The former notes the express omission of references to either domestic work or domestic workers in most national and international frameworks of law, and therefore provides guidance on how to implement the provisions of the ICRMW with respect to migrant domestic workers.<sup>519</sup> It notes that migrant domestic workers are generally at heightened risk of certain forms of exploitation and abuse, based largely on their enhanced isolation and dependence, and that national law in many countries either ignores or explicitly excludes domestic workers from labour protections. Even if they are afforded certain protections, there is often a gap between protections under law and those enjoyed in practice for migrant domestic workers.

General Comment No. 1 therefore makes a number of recommendations for states in migration policy, including: providing pre-departure awareness-raising and training for nationals considering migration for domestic work, appropriately regulating recruitment agencies and other intermediaries to ensure they respect the rights of domestic workers, implementing a framework that ensures decent work for domestic workers more broadly, providing mechanisms for migrant workers to access social security benefits and health services, protecting other rights such as that to collective bargaining and access to justice, and providing access to regular migration status. It also recommends the repealing of sex-specific bans and discriminatory

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<sup>516</sup> Office of the UN High Commissioner for Human Rights, 'The International Convention on Migrant Workers and its Committee: Fact Sheet No. 24 (Rev.1)', (2005) (accessible [here](#)).

<sup>517</sup> UN General Assembly, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families', (1990) (accessible [here](#)).

<sup>518</sup> UN Treaty Collection, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: Status as at 9-11-2021', (2021) (accessible [here](#)).

<sup>519</sup> OHCHR, 'General Comment No. 1 on Migrant Domestic Workers', (2010) (accessible [here](#)).

restrictions on women's migration, such as restrictions requiring women to get permission from a spouse or guardian to travel or bans on women migrant domestic workers securing independent housing.

General Comment No. 2 notes that the rise in young men and women seeking employment in developing countries and increase in demand for low- and middle-skilled migrant workers in developed countries has not been matched by a corresponding increase in regular migration channels, resulting in employers often resorting to employing migrant workers in an irregular situation to fill the gaps.<sup>520</sup> It highlights the duties placed on States by the ICRMW, including to take appropriate measures to ensure that the situation of a migrant worker or their families in an irregular situation does not persist, not to discriminate in the grounds of nationality, and to protect the civil and political as well as economic, social and cultural rights of migrant workers in an irregular situation.

#### 4.1.6. United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

This Protocol was adopted by the UNGA in 2000, entered into force in 2003, and seeks to combat human trafficking with a particular focus on trafficking of women and children.<sup>521</sup> It sets out measures for the criminalisation of trafficking and steps to be taken to protect the victims of trafficking through, for example, the provision of assistance, regulating the status of victims, and managing the repatriation of victims. The Protocol is unique in paying particular attention to the prevalence of trafficking amongst women (and children) and therefore directing states to take steps and/or adopt legislation that addresses the particular vulnerabilities of women to trafficking. The Protocol has received widespread support in terms of signatures and ratification, with Cameroon having ratified and Cote d'Ivoire and Ethiopia having acceded from the target countries.<sup>522</sup> Further efforts to ratify and domesticate its provisions should be encouraged.

#### 4.1.7. UN Global Compact for Safe, Orderly and Regular Migration (GCM)

The GCM is a comprehensive and powerful tool that can be used to encourage gender-sensitive migration policy and should be leveraged to this effect on the continent. It calls for various explicit protections and mechanisms for the defence of women's rights and the recognition of gender-specific elements in migration policy and incorporates a gender-responsive approach as

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<sup>520</sup> UN, 'General comment No. 2 on the rights of migrant workers in an irregular situation and members of their families', (2013) (accessible [here](#)).

<sup>521</sup> Office of the UN High Commissioner for Human Rights, 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime', (2000) (accessible [here](#)).

<sup>522</sup> UN Treaty Collection, 'A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: Status at 08-11-2021', (2021) (accessible [here](#)).

Additional acceding African countries are: Angola, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Eritrea, Gabon, Ghana, Guinea, Kenya, Liberia, Malawi, Mauritania, Mauritius, Morocco, Sao Tome and Principe, Sudan, Zambia and Zimbabwe.

Additional ratifying African countries are: Algeria, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Egypt, Equatorial Guinea, Eswatini, Gambia, Guinea-Bissau, Lesotho, Libya, Madagascar, Mali, Mozambique, Namibia, Niger, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Togo, Tunisia, and Tanzania.

a core guiding principle. In line with its recommendations, Member States of the AU and RECs should be encouraged to develop appropriate responses for its implementation, and to set up regular processes to review implementation of the GCM at the national and regional level.<sup>523</sup> The Guide prepared by the SDC and UN Women providing guidelines on the gender-responsive implementation of the GCM (the Guide), will be invaluable in this regard.<sup>524</sup>

#### 4.1.8. Various other international instruments

Various other international instruments are of broad relevance in the discussion on the protection of the rights of migrant workers. As the Office of the UN High Commissioner for Human Rights (OHCHR) points out:<sup>525</sup>

“Of particular relevance is general comment No. 15 of the Human Rights Committee (“The position of aliens under the Covenant”),<sup>526</sup> adopted in April 1986, in which the Committee makes clear that there shall be no discrimination between aliens and citizens in the application of the human rights contained in the International Covenant on Civil and Political Rights. In August 2004, the Committee on the Elimination of Racial Discrimination adopted its general recommendation No. 30 (“Discrimination against non-citizens”), in which it makes specific recommendations to States parties in order to eliminate discrimination against non-citizens. It recommends inter alia that States should adopt measures to ensure “that public educational institutions are open to non-citizens and children of undocumented immigrants residing in the territory of a State party”, to “eliminate discrimination against non-citizens in relation to working conditions and work requirements” and to “prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault”. The Committee further clarifies that “all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated.”

Member States and RECs should also be encouraged to adhere to gender-specific frameworks such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), UN Resolution 1325 and the Beijing Platform for Action. CEDAW, for example, in general recommendation no. 26, gives specific attention to the rights of female migrant workers and in general recommendation no. 32 to gender-related dimensions of refugee status, asylum, nationality, and statelessness.<sup>527</sup> Member States who have not yet done so should therefore be strongly encouraged to ratify CEDAW.<sup>528</sup>

UN Resolution 1325, the first landmark Security Council resolution on women, peace and security addresses the impact of war on women and the importance of women’s full and equal participation in conflict resolution and calls for special measures to protect women and girls from

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<sup>523</sup> UN, ‘Global Compact for Safe, Orderly and Regular Migration’, (2018) at p. 31 (accessible [here](#)).

<sup>524</sup> SDC and UN Women, ‘Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration’, (2019) (accessible [here](#)).

<sup>525</sup> Office of the UN High Commissioner for Human Rights, ‘The International Convention on Migrant Workers and its Committee: Fact Sheet No. 24 (Rev.1)’, (2005) at p. 12-13 (accessible [here](#)).

<sup>526</sup> On the International Covenant on Civil and Political Rights (ICCPR).

<sup>527</sup> UN, ‘Convention on the Elimination of All Forms of Discrimination Against Women’, (1979) (accessible [here](#)).

<sup>528</sup> Note that all target countries under the current analysis have ratified CEDAW.

conflict-related sexual violence.<sup>529</sup> The Resolution is particularly relevant for women migrants displaced because of conflict, affected by conflict during their migration journeys, or refugees and internally displaced persons. While there are questions around the extent to which the Resolution is binding,<sup>530</sup> the Resolution has been particularly impactful in the creation of a new paradigm that recognises the importance of women’s involvement in peace and security issues in order to achieve long-lasting stability,<sup>531</sup> and should therefore serve as strong justification for efforts to incorporate the views of migrant women in migration policy-making and planning. It also a model that can be used to inform future efforts to not only place full attention on the gendered aspects of a particular topic, but also to actively seek mechanisms through which to include women in policymaking instead of treating them merely as victims.

#### 4.1.9. Other regional initiatives

Other regional groupings have made progress on establishing multistakeholder frameworks for ensuring a gender perspective in integrated into migration policy. For example, in 2017 the Regional Migration Conference, a grouping of eleven South and North American countries, approved the “Guidelines for the Care and Protection of Women in the context of Migration,” which set out a range of guidelines for promoting, protecting, and guaranteeing the rights of migrant women in the development, design and implementation of national initiatives.<sup>532</sup>

Similarly, the Regional Framework Law on Migration with a Human Rights Approach was approved by the Forum of Presiding Officer of Legislative Assemblies of Central America and the Caribbean Basin (FOPREL) in 2019 to serve as a model that creates a guiding framework to contributes to safe, orderly, and regular migration, particularly for vulnerable populations, in the Central America region, the Caribbean Basin and Mexico.<sup>533</sup>

In the European Union, the European Commission’s (EC) 2015 European Agenda on Migration has been criticised for being “gender-blind,”<sup>534</sup> although the EC’s strategy for equality between women and men 2010-2015 did reinforce that in order to meet employment goals special attention needs to be given to the labour market participation of migrant women, recognising that the employment rate of migrant women is low, and identifying the promotion of gender equality in all initiatives on immigration and integration of migrants as one of its key actions.<sup>535</sup> It’s new EU gender quality strategy likewise places focus on the need for particular attention to the issue of women and girls in the asylum and migration area.<sup>536</sup> Further, EU Directive 2011/36/EU of 5 April 2011 highlights the need to adopt a gender-specific approach to trafficking in human beings and emphasises that prevention, assistance and support measures must be

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<sup>529</sup> UN Security Council, ‘Resolution 1325’, (2000) (accessible [here](#)).

<sup>530</sup> Appiagyei-Atua, ‘United Nations Security Council Resolution 1325 on Women, Peace, and Security — Is it Binding?’, (accessible [here](#)).

<sup>531</sup> United States Institute of Peace, ‘What is UNSCR 1325? An Explanation of the Landmark Resolution on Women, Peace and Security’, (accessible [here](#)).

<sup>532</sup> IOM, ‘Guidelines for the care and protection of women in the context of migration’, (2017) (accessible [here](#)).

<sup>533</sup> IOM, ‘Model of Migration Law Approved for Central America and the Caribbean’, (2019) (accessible [here](#)).

<sup>534</sup> European Institute for Gender Equality, ‘Migration’, (accessible [here](#)).

<sup>535</sup> *Ibid.*

<sup>536</sup> *Ibid.*

gender-specific, and Directive 2013/32/EU (recast) of 26 June 2013 on common procedures for granting and withdrawing international protection calls for gender-sensitive application procedures for asylum.<sup>537</sup>

Finally, it is worth noting that in February 2014, the European Parliament adopted a resolution on undocumented women migrants in the EU that considered the multiple types of discrimination experienced by undocumented women migrants due to their gender, legal status and in certain cases race, and called on states to uncouple immigration policies from healthcare, education and the prosecution of crimes against undocumented migrants, to revise directives in order to strengthen the protection of rights of undocumented female migrants in particular, and to investigate abuses in detention centres to implement more humane alternatives.<sup>538</sup> Various other resolutions from the European Parliament are also of relevance, including relating to the situation of refugee women and asylum seekers in the EU and on women domestic workers and carers in the EU.<sup>539</sup>

#### **4.2. Safe and Secure Working Environments, Social Protection and Mutual Recognition of Skills and Educational Levels (Strategic Objective 2)**

Strategic Objective 2 of the JLMP Strategic Framework is for migrant workers, both formal and informal, to enjoy safe and secure working environments, access to and portability of social protection, and mutual recognition of skills and qualifications. It addresses the challenges of i) the prevalence of sub-standard, abusive employment relations and conditions of work in both the formal and informal sectors; ii) the absence of social protection and social security for many migrants, especially in the informal sector; and iii) the growing gaps between skills and qualifications needs versus numbers and types produced in Africa.<sup>540</sup>

There are various gender-specific dimensions of providing safe and secure working environments, social protection and recognition of skills and qualifications that are worth highlighting here.

##### **4.2.1. Documentation**

First, many women migrants are dependent on spouses, guardians, or employers for documentation, which inhibits their free movement and may increase their vulnerability to human rights violations.<sup>541</sup> While those for whom documentation is possible should be enabled to obtain it individually and independently, it must also be stressed that lack of documentation should not serve to exclude women and girls from accessing services such as healthcare. There are many reasons why women migrant workers may be undocumented. For example, women are more likely to work as cross-border traders who typically do not acquire formal documentation to do so. Women face barriers to migration such gender-specific laws and policies, for example

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<sup>537</sup> *Ibid.*

<sup>538</sup> *Ibid.*

<sup>539</sup> *Ibid.*

<sup>540</sup> JLMP, 'Strategic Framework 2020-2030 for the AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP)', (2020) at p. 31 (accessible [here](#)).

<sup>541</sup> SDC and UN Women, 'Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration', (2019) (accessible [here](#)).

requirements for male relative consent or total bans, that may prevent them from pursuing regularised migration routes. Further, women are more likely to work in the informal sector or in low-skilled activities for which the opportunities for regular migration are much lower, with the legislation of many African states allowing only or mostly for skilled labour migration into their countries.

It must also be noted that gender-specific restrictions on documentation are a burden not only on women, for whom they may limit agency, but also for men who must bear the burden of managing administrative processes on behalf of female relatives, or who may suffer the losses to the family of restrictions on their female family members being able to work and contribute to household expenses.

#### 4.2.2. Urban settings

The AU Migration Policy Framework for Africa (MPFA) notes that international migration in Africa takes place mainly to cities,<sup>542</sup> and policies for the integration of migrants must therefore take cognisance of issues of gendered norms within cities of destination as well ensuring the physical safety of and opportunities available to women migrants in urban settings. It must also be noted that from the late nineteenth century through to the 1950s, many countries implemented policies designed to keep women in rural areas, many of which were largely successful.<sup>543</sup> Even in 2005, the percentage of the female population of Kenya that lived in urban areas was only 15%.<sup>544</sup> The experiences of women in cities therefore often vary significantly from those in rural areas, meaning national and regional migration policies must account for the urban dynamic in seeking to understand how best to support women migrants.

#### 4.2.3. Social protection

Women migrants are more likely to migrate as ‘dependent spouses’ and to work in industries where labour is ‘invisible’ (such as domestic labour and caregiving), as well as to be working in criminalised or stigmatised industries such as sex work. These factors combine to leave women migrants even less protected than other migrants, who also bear the burden of challenges accessing social protection.

40% of countries worldwide do not offer social protections for domestic workers, and more do not extend social protections to migrant domestic workers, while 74% of migrant domestic workers globally are women.<sup>545</sup> Out of 31 African countries that do have some legal social security coverage for domestic workers, less than half (15) extend that coverage to migrant domestic workers.<sup>546</sup> Bilateral and multilateral social security agreements are one of the most comprehensive and most commonly used options for ensuring the coordination of social security schemes and the portability of entitlements and benefits and should be leveraged for this

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<sup>542</sup> African Union, ‘The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)’, (2018) at p. 7 (accessible [here](#)).

<sup>543</sup> AU, IOM, SDC and US Department of State, ‘Africa Migration Report’, (2020) at p. 44 (accessible [here](#)).

<sup>544</sup> *Ibid.*

<sup>545</sup> UN Women, ‘Explainer: How Migration is a Gender Equality Issue’, (2020) (accessible [here](#)).

<sup>546</sup> AU, IOM, SDC and US Department of State, ‘Africa Migration Report’, (2020) at p. 27 (accessible [here](#)) and African Union, ‘Report on Labour Migration Statistics in Africa Third Edition’, (2019) at p. 47 (accessible [here](#)).



purpose. It should also be noted that while the number of bilateral social security agreements has increased steadily over time around the world, the growth in Africa has been much slower,<sup>547</sup> indicating the potential to use this tool more energetically to ensure the extension of social protection to women migrant workers.

As UN Women points out, migrant domestic workers face particular vulnerabilities because their place of work is also often their place of residence, and they often face unequal power dynamics, confinement, and other control over their activities, as well as various forms of abuse. Their situations are often characterised by high levels of dependence on their employers and isolation from the outside world.<sup>548</sup> Migrant women also often face informational barriers to accessing social protection.

The COVID-19 pandemic has only served to exacerbate these challenges for migrant domestic workers, who have been at greater risk of losing their jobs due to informal employment conditions and exclusion from national labour practices, and who are likely to also face greater isolation and dependence as a result of pandemic-management measures such as lockdowns. With higher rates of women workers in essential but low-paid and vulnerable jobs, such as health and care workers, nurses, cleaners, etc, migrant women have faced higher risks of COVID-19 exposure and have suffered from the economic fallout.<sup>549</sup> For example, approximately 75% of migrant women work in the informal economy and in precarious work, meaning employers could more readily dismiss migrant women in response to the economic decline.<sup>550</sup>

Women migrant workers also struggle from lack of access to healthcare since insurance or national healthcare schemes are usually not available or affordable to migrants, particularly reproductive healthcare, in countries of destination, which may lead to unwanted pregnancies or health complications that significantly affect their economic, physical, and mental wellbeing. Fears over legal status may further discourage migrant women from seeking out healthcare services, and the lack of access to information discussed above also restricts access to health services and information. Migrant women face particular health challenges related to pregnancy, as employers may require mandatory pregnancy tests and withdraw their work permits or report them to immigration authorities in the case of pregnancy. Coercive abortion is also a related risk.<sup>551</sup>

The third edition of the Labour Migration Statistics Report for Africa provides a useful overview of the status of ratifications of ILO Conventions related to the social protection of migrant workers and their families.<sup>552</sup> It notes that the convention that has so far received the most extensive

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<sup>547</sup> *Ibid* at p. 48.

<sup>548</sup> See UN Women's Gender-responsive guidance on employment contracts for migrant domestic workers from South Asia as a reference tool for development, negotiation, or review of employment contracts for migrant domestic workers (accessible [here](#)). The Gender-Responsive Self-Assessment Tool for Recruitment Agencies is also a useful tool by which recruitment agencies and employers can better respond to the needs of women migrant workers (accessible [here](#)).

<sup>549</sup> UN Women, 'Explainer: How Migration is a Gender Equality Issue', (2020) (accessible [here](#)).

<sup>550</sup> *Ibid*.

<sup>551</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>552</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 46 (accessible [here](#)).

support from African countries in terms of ratification is the Equality of Treatment (Accident Compensation) Convention No. 19 (at 39 countries), while the Maintenance of Social Security Rights Convention No. 157 has received zero. Overall, the number of ratifications in Africa is low — suggesting significant gaps in the application of international standards. However, Africa as a whole performs relatively well on measures of equality of treatment with respect to social security with 22 countries (71% of the 31 surveyed) having legal provisions on equality of treatment.

It is also worth noting that the ILO Regional Office for Africa is currently implementing a strategy to accelerate social protection coverage in Africa with a target of reaching 40% by 2025, with a particular focus on the informal economy and currently uncovered populations.<sup>553</sup>

#### 4.2.4. Gender-determinants of employment opportunities and risks

Gender-segregated or -shaped job markets influence the work opportunities and compensation available to women migrants on arrival, as well as the risks of exploitation and violence they face in those workplaces.

Women migrants tend to be employed in lower-paying jobs than male migrants, and often have fewer opportunities in terms of sectors or types of work as a result of discrimination and gender stereotypes.<sup>554</sup> Many women migrants may also be dependent either on a male relative's consent to migrate or to find employment, or on male relatives for the renewal of their residence or work permits.<sup>555</sup> Likewise, women may be more at risk of exploitative and/or fraudulent recruitment practices in countries of destination as a result of their concentration in low-skilled areas of work which are prone to labour abuse and their lack of access to better information that might serve to protect them. Finally, being more likely to be employed in lower-paid jobs, women are indirectly discriminated by migration laws that require, for example, a minimum income, and which prioritise higher-skilled workers.<sup>556</sup>

Imperfect cross-border recognition of skills further amplifies the disadvantages often faced by women migrants in countries of destination.<sup>557</sup> Adequate recognition of skills and qualifications can help to overcome the persistent occupational segregation and gender pay gap that exists in many African countries.

#### 4.2.5. Violence and discrimination

Women migrants face greater risks of GBV in the workplace, public spaces and in their homes, as do those who are detained because of their migration status.<sup>558</sup> Violence against women and girls also co-occurs at high rates within conflict situations or camps for displaced persons.

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<sup>553</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 54 (accessible [here](#)).

<sup>554</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>555</sup> *Ibid.*

<sup>556</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>557</sup> *Ibid.*

<sup>558</sup> UN Women, 'Explainer: How Migration is a Gender Equality Issue', (2020) (accessible [here](#)).

Migrants from gender minorities also face disproportionate risks on arrival, including pervasive discrimination that places them at a disadvantage in the labour market, which causes higher rates of informal employment, unemployment, and poverty, as well as sexual and gender-based violence.<sup>559</sup> Unfortunately, data on rates of abuse amongst LGBTQI+ migrants is scarce, and incidents often go unreported.

In many countries on the continent, women continue to face barriers to exercising their rights through the legal and other systems. For example, while around 45,6% of women in Africa report experiencing GBV,<sup>560</sup> less than 10% of those who seek help after experiencing violence turn to the police, with even less being formally reported to the police and a minority ever resulting in a conviction.<sup>561</sup> Low reporting rates are due to a range of barriers facing women in doing so, including the risk of re-victimisation from the police and/or abusers, as well as the low likelihood of conviction outweighing the difficulties of pursuing a legal process.

Women also face the risk of losing their work permits or of being arrested or deported after making a report of abuse or discrimination, especially if the abuser is an employer or relation of the employer, and many work in circumstances where they lack the mobility to report violations because they are confined to workplaces or living sites.<sup>562</sup> Some countries have even imposed restrictions on the use of the legal system by migrant women to obtain remedies for discrimination, abuse, or GBV.<sup>563</sup>

There have been reports that these challenges have been exacerbated through the COVID-19 pandemic as rates of domestic and GBV have increased at the same time that courts have been closed or suspended and legal aid clinics or domestic shelters face economic constraints or closures.<sup>564</sup> Because women also work in frontline employment situations at higher rates, such as health and care workers, they are at greater risk for contagion by COVID-19, and also carry higher burdens of care during instances of school closures, sick family members, etc.<sup>565</sup> Women's higher rates of employment in the informal economy and insecure sectors such as hospitality likewise put them at greater risk of job losses during difficult economic times such as the COVID-19 pandemic.<sup>566</sup>

#### 4.2.6. Remittances

The volume of remittances sent in Africa has increased dramatically in recent years,<sup>567</sup> and they play an important role in social development of receiving countries. However, the effects of the

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<sup>559</sup> *Ibid.*

<sup>560</sup> Commission for Gender Equality, 'Assessing the Work of SAPS Police Stations in Combating Violence Against Women', (accessible [here](#)).

<sup>561</sup> UN Women, 'Strengthening police responses to gender-based violence crucial in lead up to Generation Equality Forum in Paris', (2021) (accessible [here](#)).

<sup>562</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>563</sup> *Ibid.*

<sup>564</sup> AUC-WGDD, UN Women, OHCHR and UNFPA, 'Gender-Based Violence in Africa During the Covid-19 Pandemic', (2020) (accessible [here](#)).

<sup>565</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>566</sup> *Ibid.*

<sup>567</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 50 (accessible [here](#)).

COVID-19 pandemic were projected to cause a decrease in remittances to Africa of about 23% from pre-pandemic levels.

While migrant women make up half of all remittance senders globally, they often pay higher remittance fees than men because they tend to send smaller amounts and rely on in-person cash transfer services that charge higher fees.<sup>568</sup> This may be related to lower digital literacy levels and lower access to digital technologies among women. Sex-disaggregated data on remittances is lacking, but indications are that women migrants tend to remit a greater proportion of their earnings and at more regular intervals than men, despite usually earning lower less on average than men.<sup>569</sup>

As UN Women points out:<sup>570</sup>

“It is argued that the extent to which remittances can promote development (economic and social) is reliant on whether migration and remittances form part of a “virtuous cycle” for local economic development. A virtuous cycle typically includes the ability to invest remittances through formalised financial services generating spill over effects to local economic activities. This has been described as promoting “inclusive financial democracy”, using remittances to generate an ability to do more, not just buy more.”

Nevertheless, it must be highlighted that women migrant workers may not retain control over how remittances are spent once the funds are transferred back home, and many countries have restrictive laws and practices governing women’s access to and control over property that can limit their ability to acquire assets.<sup>571</sup> Further, women migrant workers face challenges channelling their earnings into concrete and realisable benefits because of limited targeted financial literacy programs and access to financial services for women in both countries or origin and destination.<sup>572</sup>

#### 4.2.7. Public life and the right to association

Migrants often find a sense of community as well a mechanism to defend and protect their rights through migrant associations and other collective efforts. It is likely that women migrants find it more difficult to engage in these types of associations because of gender stereotypes about women’s participation in public life, unequal power dynamics in the home that may lead to control over a woman’s movements, and strong dependency on employers or restrictions on mobility as a result of employment in domestic sector.

#### 4.2.8. Return and re-integration

The experience of returning home is also a gendered experience for many, with women face many peculiar risks and challenges in the process. As discussed above, migration may prove a liberating

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<sup>568</sup> UN Women, ‘Explainer: How Migration is a Gender Equality Issue’, (2020) (accessible [here](#)).

<sup>569</sup> *Ibid.*

<sup>570</sup> UN Women, ‘Women Migrant Workers’ Contributions to Development’, (2017) (accessible [here](#)).

<sup>571</sup> *Ibid.*

<sup>572</sup> *Ibid.*

experience for some women, who may consequently struggle to reintegrate into traditional roles and conceptions of gender on their return to their countries of origin.<sup>573</sup>

However, returning migrants have been found to have contributed positively to the empowerment of women and girls in their home countries, with women being more significant agents of change than men.<sup>574</sup> The effect can also work the other way, though, for migrants going to countries with more conservative gender norms. A similar effect has been observed with regard to fertility rates.<sup>575</sup>

Policies on return or deportation, as well as re-integration programmes, must be alert to the gender-specific dynamics, including of risks such as GBV, domestic abuse or risks of re-trafficking, and of women's ability to access necessary services, such as healthcare and justice, and employment opportunities there.

#### **4.3. Collection and Utilisation of Sex-Disaggregated Data (Strategic Objective 3)**

The JLMP's Strategic Objective 3 is the increased utilisation of labour migration disaggregated data and statistics by all for evidenced based decision-making, policy planning, formulation, and application. Acknowledging the paucity of disaggregated data on characteristics and conditions of labour migrants, and data required for policy in economic, labour, enterprise development, investment, education, and social protection areas, the intention is to implement processes for collecting, compiling, processing, and disseminating sex-disaggregated data, ensuring statistics produced on the continent are harmonised and conform to global and regional statistical standards.

Although it is clear that high-quality data on many aspects of migration remains severely inadequate,<sup>576</sup> it is arguable that data on the gender dimensions of migration experiences this dearth most acutely. The African Union has noted that "in general, Member States lack migration data that is required to make informed policy choices,"<sup>577</sup> and irregular migration is particularly prone to severe data scarcity.<sup>578</sup> The existence of sex-disaggregated data on migration is crucial in order to "highlight the contributions made by women in migration, the gendered drivers of migration, and the situation and realities of migrant women in every phase of the migration process."<sup>579</sup>

The Third Edition of the Report on Labour Migration Statistics in Africa also notes that "Data on effective social protection coverage of migrant worker is very limited. There is a strong and

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<sup>573</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

<sup>574</sup> IOM, 'World Migration Report', (2020) at p. 186 (accessible [here](#)).

<sup>575</sup> *Ibid.*

<sup>576</sup> For example, by 2019 14% of countries in Africa had not updated the total number of international migrants since the 2000 round of population censuses. AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 16 (accessible [here](#)).

<sup>577</sup> African Union, 'Report of the Assessment of the Capacity Building Needs of African Union Member States and Regional Economic Communities to Manage Migration', (2018) at p. 14 (accessible [here](#)).

<sup>578</sup> AU, IOM, SDC and US Department of State, 'Africa Migration Report', (2020) at p. 27 (accessible [here](#)) and African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 54 (accessible [here](#)).

<sup>579</sup> African Union, 'The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)', (2018) at p. 44 (accessible [here](#)).

urgent need to invest in statistics on social protection for migrant workers to inform policy responses and monitoring progress.”<sup>580</sup> Social protection is an area in which there are particularly strong gender dynamics related to inequality of access.

The release of the First, Second and Third Editions of the Report on Labour Migration Statistics in Africa constituted a major achievement in the advancement of evidence-based understanding of migration in Africa, including through the extensive incorporation of sex-disaggregated data. Nevertheless, the report needs to be made an annual release, and greater effort must be made to draw out gender-specific policy recommendations from the wealth of insight and knowledge that does already exist in the Report on Labour Migration Statistics in Africa. For example, while most sections of the report deal at length with sex-disaggregated data and findings, the final recommendations barely touch on gender-specific findings and actions to be taken.<sup>581</sup>

Further, a number of areas continue to stand out in terms of lacking high-quality, sex-disaggregated data:

- Country-level data on the number of migrants in employment, which currently exists only for limited number of countries<sup>582</sup> on the continent, and which should ideally include detail on the status of their employment, economic activity, occupation, and level of education;<sup>583</sup>
- Data on abuses and violence experienced by women migrants, both *en route* and on arrival in destination countries.<sup>584</sup> While some anecdotal evidence exists, it is typically of low quality, unrepresentative, or outdated and not regularly updated.
- Data on social protections afforded to women migrants. Given the differential rates at which women participate in activities least likely to afford them social protections,<sup>585</sup> such as informal employment or domestic work, it is important to be able to access this kind of data in order to make informed policy decisions about how to alleviate these issues. Efforts to collect more extensive information about social protection appear to be ongoing,<sup>586</sup> and

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<sup>580</sup> African Union, ‘Report on Labour Migration Statistics in Africa Third Edition’, (2019) at p. 54 (accessible [here](#)).

<sup>581</sup> African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at p. 54-55 onwards (accessible [here](#)).

<sup>582</sup> African Union, ‘Report on Labour Migration Statistics in Africa Second Edition’, (2017) at (accessible [here](#)).

<sup>583</sup> The Third Edition of the Report on Labour Migration Statistics in Africa notes that only 11 countries provided relevant data for one or more of the variables on the characteristics of employed persons in the general population and among migrants, of which only Cameroon is a target country of the JLMP (see p. 33).

<sup>584</sup> IOM, ‘World Migration Report’, (2020) at p. 214 (accessible [here](#)).

<sup>585</sup> For example, approximately 14% of countries whose social security systems provide some coverage for domestic workers do not extend the same rights to migrant domestic workers, according to the ILO. AU Report on Labour Migration Statistics in Africa, Second Edition at p. 48 (2017) (accessible [here](#)).

<sup>586</sup> For example, the ILO project ‘Extending access to social protection and portability of benefits to migrant workers and their families in selected regional economic communities in Africa’ seeks to enhance the quality of data collected on social protection, and there are efforts to integrate a module on social protection for migrant workers into the ILO’s Social Security Inquiry questionnaire and to support the East and Central Africa Social Security Association to create a dashboard on social protection, including a component on migrant workers. The recent inauguration of the African Migration Observatory in Morocco also bodes well in this regard (see [here](#)).

should be strongly encouraged to collect gender-specific data as well, including by disaggregating data by sex and by asking questions tailored to the experiences of women migrants. For example, it is hypothesised that women migrants are more likely to be affected by poverty than men migrants, but sex-disaggregated data on income levels among migrants is lacking.

- Sex-disaggregated data on remittances.<sup>587</sup> There is a need for improvements on data about the contributions of women with regard to remittances in order to accurately capture the economic contributions of women migrants to economic growth and sustainable development, and to overcome negative narratives and stereotypes.<sup>588</sup>
- Proportion of irregular migrants that are women in Africa.

It must be noted, in addition, that the collection and use of statistics must take into account stereotypes and social and cultural factors that may induce gender bias (for example, the under-reporting of women's economic activity),<sup>589</sup> and that in addition to improvements on the collection of sex-disaggregated data, there is need for better data sharing, while maintaining data protection, amongst countries, RECs, and international and multistakeholder bodies in order to maximise the benefit that can be derived from existing datasets. This need must be balanced against the imperative of prohibiting the use of personal data that was collected for other purposes — such as health or access to services, etc., — by immigration enforcement or law enforcement purposes, which serves only to disincentivise migrants from accessing the services that they need and to which they have a right.

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<sup>587</sup> African Union, 'Report on Labour Migration Statistics in Africa Second Edition', (2017) at p. 49 onwards (accessible [here](#)) and African Union, 'The Revised Migration Policy Framework for Africa and Plan of Action (2018 – 2027)', (2018) at p. 20 (accessible [here](#)).

<sup>588</sup> SDC and UN Women, 'Policies and Practice: A Guide to Gender-Responsive Implementation of the Global Compact for Migration', (2019) (accessible [here](#)).

<sup>589</sup> JLMP, 'Handbook – Gender Dimensions of Labour Migration'.

## 5. CONCLUSION

This document has provided a Gender Analysis of the work of the JLMP, making the case for gender mainstreaming within the area of labour migration policymaking in Africa, providing an analysis of the state of gender inclusion in the target countries and priority RECs, and evaluating the degree to which gender has or could be integrated into three of the most relevant Strategic Objectives of the JLMP. Through a desk review, data collection, and stakeholder feedback, a number of key points have arisen.

The first and foremost conclusion to be raised is of the need to recognise that men and women experience migration for labour purposes differently and that gender shapes the particular challenges and risks faced throughout the migration process, from deciding to leave, the type of work or employment available, all the way through to returning home. Migration, therefore, is a highly gendered process, but labour migration policy remains largely gender-neutral. As a result, opportunities for promoting and protecting the rights of migrant workers as well as for capturing the economic benefits of migration are being missed.

It is therefore clear that integrating gender-responsive and human rights-based processes into national development and labour migration planning is crucial to realise the full potential of all migrant workers to contribute to development both in countries of origin and destination, and to ensuring the full protection of the rights of women, men and gender and sexual minority migrant workers.

Women migrant workers tend to migrate in order to escape domestic violence or oppressive gender norms in the countries of origin at a higher rate than men. They face particular challenges during their journeys, such as the risk of gender-based violence, greater likelihood of falling victim to trafficking, and a lack of access to information and resources that puts them further at risk. On arrival, they often continue to face discrimination that limits their economic opportunities and places them in particularly vulnerable working situations. They are more likely to face challenges accessing social protection and adequate healthcare, as well as barriers to remitting funds back home and exercising their rights to collective action. On return, the many challenges of reintegration can be amplified by a clash of gender norms and expectations.

Men migrants also shoulder the burden of oppressive gender norms and stereotypes, such as the expectation to provide for their family that may push them into unsafe migration routes, limited ability to access support for violence or exploitation, or limited opportunities as a result of high levels of occupational segregation by gender in the labour forces of countries of destination.

Across the target countries and priority RECs of the JLMP, women workers in general continue to face discrimination and unequal opportunities that limits their economic and social opportunities. This creates a difficult environment for women migrant workers entering these areas and may also contribute to efforts by some nationals to emigrate outside the country or region to find better economic and social opportunities. The situation is similar for migrant workers from gender minority communities.

With regard to the state of labour migration policy in these countries and RECs, there appears to be a wide range of philosophical approaches and technical migration policies in the region. None



of the countries and RECs under review appeared to incorporate gender-specific factors into their labour migration planning, or to account for the gendered dynamics of the migration experience in order to protect the rights of women migrant workers and maximise their ability to participate economically in both their countries of origin and destination.

As the proportion of women migrant workers in Africa continues to grow, labour migration policy on the continent must keep pace with growing developments in this area. In relation to JLMP Strategic Objective 1, international instruments are slowly beginning to take cognisance of the gender-specific needs of women migrant workers. For example, the UN Global Compact for Safe, Orderly and Regular Migration sets a high bar with regard to properly addressing the specific needs of women and girls. While other instruments continue to demonstrate little regard to gender, the JLMP is encouraged to identify opportunities to further the integration of gender inequality in the national and regional labour migration policies of its Member States and Regional Economic Communities. Key among these would be implementing the provisions of more progressive instruments with regard to gender such as ILO Conventions C-189, but also C-143 and C-97, and the guidance in General Comment No. 1 on Migrant Domestic Workers on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

With regard to the JLMP Strategic Objective 2, Safe and Secure Working Environments, Social Protection and Mutual Recognition of Skills and Educational Levels, the JLMP, its Member States and RECs are encouraged to take cognisance of the various gender-specific needs of migrant workers in this domain. This includes the need for independent documentation, protection in urban settings, adequate access to social protection, including the decoupling of mechanisms to access social protection from immigration and enforcement, and generally providing a more conducive environment for women workers by ensuring safe workplaces free from discrimination and violence. It would also include ensuring women are able to freely remit funds back to their families, and to access and benefit from funds remitted back to them by migrated family members. There is a need to ensure that women migrant workers are able to fully participate in public life and exercise their civil and political rights and are supported to reintegrate back into society in way that is positive and constructive for migrants, their families, and the broader communities in which they live. Finally, there is also a need to free men migrant worker that oppressive gender norms and stereotypes that may push them into unsafe migration or prevent them accessing support for rights violations.

JLMP Strategic Objective 3 speaks to the need to collect and appropriately utilise sex-disaggregated data in order to enable evidenced based decision-making, policy planning, formulation, and application. The release of the First, Second and Third editions of the Report on Labour Migration Statistics in Africa have advanced these efforts by leaps and bounds by centralising and making these statistics more easily accessible, but it is clear that there are significant remaining gaps in obtaining the information necessary for gender-sensitive and evidence-informer policymaking. The biggest gaps appear to be in more granular data on the experiences of migrant workers, particularly women migrant workers, such as employment status and types of employment, rigorous and systematic data on the experiences of women migrant workers in host countries, particularly with regard to violence, discrimination, access to opportunities and information, and other challenges such as access to social protections. There is also need for improved sex-disaggregated data on remittances in order to better understand

the contributions of women migrant workers in this regard and to enable their remittances, which likely occur through slightly different channels to men migrant workers. Beyond some countries, comprehensive data on the proportion of irregular migrants in Africa that are women appears also to be lacking, as well as on the experiences of migrant workers in an irregular situation.<sup>590</sup>

The JLMP is to be commended on their efforts to integrate a gender-equality lens into the work of this important multistakeholder initiative. As is demonstrated in this analysis, there are already promising green shoots in this regard, and various ways in which the negative consequences of gender differences in labour migration can be mitigated and the positive opportunities leveraged in order to stimulate the maximum developmental benefits from labour migration and to ensure the full protection of the rights of all women migrant workers.

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<sup>590</sup> Irregular migrant workers and migrant workers employed in the informal sector are likely part of the data commonly reported by Member States but these groups usually cannot be quantified nor reported separately. African Union, 'Report on Labour Migration Statistics in Africa Third Edition', (2019) at p. 28 (accessible [here](#)).

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ENDS.