

**GLOBAL AND CONTINENTAL  
POLICY FRAMEWORKS  
GUIDING LABOUR MIGRATION  
AND LABOUR MOBILITY  
IN AFRICA**

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International  
Labour  
Organization

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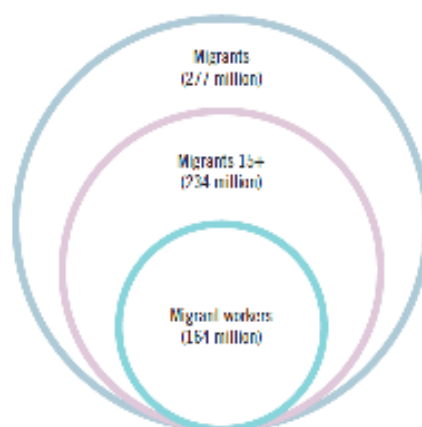
# 1

## CONTEXT

*Above all, the future of work must include the advancement of #DecentWork for migrant workers at all skill levels and sectors, leaving no one behind. The Global Compact for Migration gives us an opportunity to make this goal a reality together.*  
– Guy Ryder,  
Director-General  
of the ILO, 2018

Migration today is linked, directly or indirectly, to the world of work and the quest for decent work opportunities, either within countries or across international borders. Labour migration is growing more diverse and complex. Temporary labour migration is becoming more widespread. Many countries are now countries of origin, transit and destination at the same time. More women are joining the ranks of migrant workers and in some sectors, such as the care sector and domestic work, represent the majority of the migrant labour workforce. They can face discrimination, exploitation and abuse, including violence and harassment.

*International migrant workers in 2017 constituted 59.2 percent of all international migrants and 70.1 percent of all working-age migrants. Overall, migrants of working age constituted 4.2 percent of the world's population aged 15 and older, while migrant workers constituted 4.7 percent of all workers.<sup>1</sup>*



The diverse labour market profiles and changing flows and patterns of migration suggests that migration is largely a labour market and decent work issue.

The International Labour Organization's (ILO) strategy on labour migration and mobility in the African region is guided by its International Labour Standards (ILS) and Decent Work Agenda, and implemented in close collaboration with the World of Work actors (Ministries of Labour and workers' and employers' organizations from the 54 African countries). The ILO's rights-based approach takes into consideration labour market needs and covers all migrant workers irrespective of nationality and immigration status.

*In 2000–2017, the number of **international migrants in Africa increased from 15 million to 25 million** (United Nations Conference on Trade and Development, 2018).*

*The African Union's (AU) Report on Labour Migration Statistics in Africa in 2015 showed a **steady increase in international migration across Africa** and mentioned that **international migration in Africa is largely intra-migratory** between and across Regional Economic Communities (RECs). Indeed, more than **80% of migration flows of African nationals take place within the African continent.***



<sup>1</sup> See ILO Global Estimates on International Migrant Workers, 2018.

As such, the ILO's labour migration in Africa is steered by the following global policy frameworks:

- › The Global Compact for Safe, Orderly and Regular Migration
- › The 2030 Agenda for Sustainable Development
- › The ILO's 2018 Guidelines Concerning Statistics of International Labour Migration
- › The ILO/World Bank 2018 Guidelines on Measuring Recruitment Costs
- › The 2017 International Labour Conference's Resolution and Conclusions on Fair and Effective Labour Migration Governance and its Follow-up Plan of Action
- › The ILO's 2016 Guiding Principles on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market
- › The ILO's 2016 General Principles and Operational Guidelines for Fair Recruitment
- › The ILO's 2014 Fair Migration Agenda
- › The ILO's 2006 Multilateral Framework on Labour Migration
- › The 2004 International Labour Conference's Resolution and Conclusions Concerning a Fair Deal for Migrant Workers in a Global Economy and its Follow-up Plan of Action

The ILO's labour mobility strategy in Africa is informed by the following continental policy frameworks:

- › Africa's Agenda 2063
- › The 2014 African Union Commission's (AUC) Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa
- › The AU's Revised Migration Policy Framework for Africa and Plan of Action (2018–2030)
- › The AU's Free Movement of Persons Protocol or "Protocol to the Treaty establishing the African Economic Community relating to the Free Movement of Persons, Right of Residence and Right of Establishment"

Well-governed labour migration can contribute to sustainable development for countries of origin, transit and destination, and can provide benefits and opportunities for migrant workers and their families.

The lack of coherence between employment and labour migration policies can result in inefficiencies in the labour market, which are exacerbated by the absence of workers' and employers' organizations, for example, in making effective use of labour market information systems, and planning and improving education, vocational training and lifelong learning to ensure skills for employability.

*Migrants face multiple forms of exploitation that limit their earning and ability to contribute to the development of countries of origin and destination.<sup>2</sup>*

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<sup>2</sup> See, e.g. Naidu, Suresh, Yaw Nyarko and Shing-Yi Wang. 2014. *Worker mobility in a global labour market: Evidence from the United Arab Emirates*. NBER Working Paper 20388, National Bureau of Economic Research, Inc.

*The ILO remains a committed partner to the over 164 million migrants who've left their homes in search of decent work. It's in the spirit of that commitment that we welcome the Global Compact for Migration.*

*– Guy Ryder,  
Director-General of  
the ILO, 2018*

## 2

### GLOBAL RESPONSE

The majority of migrant workers are concentrated in low and semi-skilled positions, characterized by physically demanding and often dangerous working conditions in terms of non-respect of minimum wages, withholding of wages, illegal deduction of fees and costs from migrant workers' wages, excessive working hours, insufficient lunch breaks, daily, weekly and holidays' rest periods, no payment of overtime and annual leave, withholding of passports and other identity documents, unjustified demands to carry out tasks other than those specified in the contract (such as cleaning other family members' houses) and unjustified terminations.

The ILO aims at protecting the rights of migrant workers and upholding high standards of working conditions for all. Without proper protections for the rights of migrant workers, all workers are at risk of suffering from a race to the bottom or downward pressures on wages and other working conditions.

One of the main areas of work of the ILO is to ensure fair and effective recruitment for all workers that is in line with labour market needs and does not displace local workers or undermine working conditions. In this aim, the ILO tripartite constituents will need to further develop and enforce measures to protect workers from fraudulent and abusive recruitment practices, and ensure that a comprehensive regulatory framework for recruitment activities is in place.

#### **2.1. GLOBAL RESPONSE AT THE UN LEVEL**

##### **Global Compact for Safe, Orderly and Regular Migration (GCM)**

The GCM is a milestone in the history of the global dialogue and international cooperation on migration. It is rooted in the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda, and informed by the Declaration of the High-level Dialogue on International Migration and Development adopted in October 2013.

It is noteworthy that GCM recognizes key dimensions of the ILO's work and role, including:

- › Reference to labour mobility and decent work as important elements in enhancing pathways for regular migration
- › Investing in skills development and qualifications recognition with specific reference to Global Skills Partnerships
- › The reference and commitment to draw on ILO standards, principles and guidelines for developing standard terms of employment and in bilateral and regional labour mobility agreements
- › Promoting fair recruitment practices as an important component of the protection of the rights of migrant workers and subsequently ensuring decent work





*The Addis Ababa Action Agenda of the Third International Conference on Financing for Development (and an integral part of the 2030 Agenda), for its part, recognized that stronger governance is needed to optimize and distribute in a fair manner the benefits of migration, and that reducing the costs of migration through lowering recruitment costs, ensuring coordination of social security rights and benefits, skills recognition and lowering remittance costs are key vehicles to achieve this. Similarly, the New York Declaration for Refugees and Migrants acknowledges that labour migration at all skill levels, employment creation and adherence to labour standards are essential in protecting migrant workers, regardless of their status.*

*- Decent work for migrants and refugees,  
ILO, 2016*

*The 2030 Agenda for Sustainable Development recognizes “the positive contribution of migrants for inclusive growth and sustainable development” in countries of origin, transit and destination.*

- › Ensuring consular protection for migrant workers including those exploited in the process of recruitment
- › Specific references to the protection of the rights of domestic workers and workers at all skill levels
- › Reviewing labour laws and work conditions to identify and address vulnerabilities of migrant workers at all skill levels
- › Establishing non-discriminatory social protection systems including social protection floors and mechanisms for access and portability of social security benefits
- › Strong recognition for the role of trade unions and employers in the various objectives and particularly in the implementation of the compact and through a whole-of-society approach
- › Mentioning ILO Conventions and calling for the ratification and implementation of relevant instruments on labour migration, labour rights, decent work and forced labour

Decent Work is mentioned explicitly in a number of objectives, including:

- › 2: Minimize the adverse drivers and structural factors that compel people to leave their country of origin
- › 5: Enhance availability and flexibility of pathways for regular migration
- › 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work
- › 16: Empower migrants and societies to realize full inclusion and social cohesion
- › 18: Invest in skills development and facilitate mutual recognition of skills, qualifications and competences
- › 22: Establish mechanisms for the portability of social security entitlements and earned benefits

### **The 2030 Agenda for Sustainable Development**

Decent work and migration cut across the whole 2030 Agenda, but are bound up specifically in Sustainable Development Goal (SDG) 8 on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, which contains target 8.8:

*“Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.”*

Also of particular significance to the ILO’s Decent Work and Fair

Migration Agendas is SDG 10 on reducing inequality within and among countries, which contains target 10.7.

*“Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.”*

### **The ILO 2018 Guidelines Concerning Statistics of International Labour Migration**

The purpose of the Guidelines Concerning Statistics of International Labour Migration is to help countries to develop their national statistical system by collecting comparable statistics on international labour migration in order to provide an improved information base for the various users, taking into account specific national needs and circumstances. Such a system should be designed to achieve a number of objectives, in particular to obtain a better understanding of the migration process; to assess the socio-demographic characteristics and conditions of work and the equitable treatment of different groups of international migrant workers; and to study the relative status of the disadvantaged groups of international migrant workers that are of specific policy concern.

### **The 2018 ILO/World Bank Guidelines on Recruitment Costs**

The Guidelines on Recruitment Costs prepared by the ILO and the World Bank may assist those aiming to produce the statistics needed to calculate SDG 10.7.1 indicator: “Recruitment cost borne by employee as a proportion of monthly income earned in country of destination”.

These have been prepared in consultation with several national statistical offices<sup>3</sup> and other UN agencies to develop a recruitment cost indicator that can be monitored as part of the SDG agenda, drawing on the experience and lessons learned from the surveys jointly conducted by the World Bank/KNOMAD (Global Knowledge Partnership on Migration and Development) and the ILO. This work is expected to contribute to identifying the size of, and setting a global target to reduce, recruitment costs globally. The Guidelines include discussions on objectives and uses of the indicator, definition, considerations on data collection items, programmes and methods, as well as consideration on relevant tabulations.

### **The 2018 (new) ILO definition on recruitment fees and related costs**

The Report of the ILO Meeting of Experts on Defining Recruitment Fees and Related Costs that took place in Geneva, 14–16 November 2018 provided the following new definition of recruitment fees and related costs: The terms “recruitment fees” or “related costs” refer to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.<sup>3</sup>

Recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third



<sup>3</sup> [https://www.ilo.org/gb/GBSessions/GB335/ins/WCMS\\_669783/lang--en/index.htm](https://www.ilo.org/gb/GBSessions/GB335/ins/WCMS_669783/lang--en/index.htm)



### **The ILO and its tripartite nature**

*A “tripartite Meeting of Experts to Develop Guidance on Fair Recruitment” was organized in 2016, with the objective to adopt ILO guidelines on fair recruitment, encompassing both cross-border and national recruitment. The outcomes of this experts meeting have informed the general discussion on labour migration at the International Labour Conference in June 2017, which in its “conclusions concerning fair and effective labour migration governance” recognized fair recruitment as an area warranting special attention.*

parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits.

## **2.2. RESPONSE BY THE ILO AT THE GLOBAL LEVEL**

### **The 2017 International Labour Conference’s Resolution and Conclusions concerning Fair and Effective Labour Migration Governance and its Follow-up Plan of Action**

The following priorities in relation to the ILO’s response to international labour migration were identified:

- › **International labour standards.** Promote the ratification and effective application of the ILO Conventions and recommendations.
- › **Skills.** Provide support for: (i) the development of skills, (ii) better assessment of skills needs, and (iii) the alignment of training to meet labour market demands.
- › **Fair recruitment.** Support and promote constituents’ efforts to operationalize the the ILO’s General Principles and Operational Guidelines for Fair Recruitment. Pursue efforts in developing and testing a methodology to measure recruitment costs under target 10.7 of the 2030 Agenda for Sustainable Development and further work on the definition of recruitment fees and related costs.
- › **Data.** Collect and disseminate comparable data on labour migration, disaggregated by sex and age, among others, and on its effect on labour markets in countries of origin, transit and destination, and on migrant workers.
- › **Social protection.** Build constituents’ capacities to develop and implement bilateral and multilateral social security agreements and extend social protection systems to migrant workers.
- › **Freedom of association.** Work with the ILO constituents to identify obstacles to freedom of association for migrant workers and assess the most effective measures and strategies to address them.
- › **Temporary labour migration.** Conduct a comparative analysis of temporary and circular labour migration schemes.
- › **Irregular labour migration.** Encourage sharing of good practices on reducing irregular labour migration, including on pathways out of irregularity. Promote respect for human rights and fundamental principles and rights at work of migrant workers, irrespective of their migrant status.

### **The ILO’s 2016 Guiding Principles on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market**

A Tripartite Technical Meeting on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market was held in 2016,

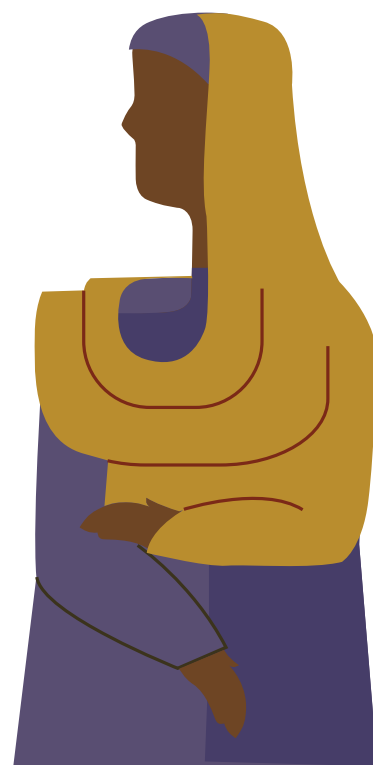


where the following principles were adopted to guide the work of Member States:

- › **Governance frameworks on access to labour markets.** Members should formulate national policies, and national action plans to ensure the protection of refugees and other forcibly displaced persons in the labour market. National policies and action plans should be formulated in conformity with international labour standards, decent work and humanitarian principles, and foster opportunities for formal and decent work that support self-reliance. Members should make easily available information regarding laws and regulations applicable to entrepreneurship.
- › **Economic and employment policies for inclusive labour markets.** Members should formulate coherent macroeconomic growth strategies, including active labour market policies that support investment in decent job creation that benefit all workers.
- › **Labour rights and equality of opportunity and treatment.** Members should adopt or reinforce national policies to promote equality of opportunity and treatment for all, in particular gender equality, recognizing the specific needs of women, youth and persons with disabilities, with regard to fundamental principles and rights at work, working conditions, access to quality public services, wages and the right to social security benefits for refugees and other forcibly displaced persons, and to educate refugees and other forcibly displaced persons about their labour rights and protections.
- › **Partnership, coordination and coherence.** Members should promote national, bilateral, regional and global dialogue on the labour market implications of large influxes of refugees and other forcibly displaced persons, and the importance of access to livelihoods and decent work.
- › **Voluntary repatriation and reintegration of returnees.** Countries of origin should reintegrate refugee returnees in their labour market. The ILO and its Members in a position to do so should provide assistance to countries of origin in areas of refugee returnees in creating employment and decent work for all, as well as livelihoods and self-reliance.
- › **Additional pathways for labour mobility.** Members should promote labour mobility as one of the pathways for admission and for responsibility-sharing with countries hosting large numbers of refugees and other forcibly displaced persons and include such pathways for admission in their national policies.

### The ILO's 2016 General Principles and Operational Guidelines for Fair Recruitment

The objective of these non-binding ILO General Principles and Operational Guidelines for Fair Recruitment is to inform the current and future work of the ILO and of other organizations, national legislatures,



## Social dialogue

*The ILO, as a unique tripartite organization with its rights-based approach, has an important role to play in maximizing the benefits of labour migration and minimizing the risks and social costs. Social dialogue, in all its different forms, lies at the heart of the ILO's mandate and is central to achieving fair labour migration.*

and the social partners on promoting and ensuring fair recruitment. The general principles are:

- › Recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation.
- › Recruitment should respond to established labour market needs, and not serve as a means to displace or diminish an existing workforce, to lower labour standards, wages or working conditions, or to otherwise undermine decent work.
- › Appropriate legislation and policies on employment and recruitment should apply to all workers, labour recruiters and employers.
- › Recruitment should take into account policies and practices that promote efficiency, transparency and protection for workers in the process, such as mutual recognition of skills and qualifications.
- › Regulation of employment and recruitment activities should be clear and transparent and effectively enforced. The role of the labour inspectorate and the use of standardized registration, licensing or certification systems should be highlighted. The competent authorities should take specific measures against abusive and fraudulent recruitment methods, including those that could result in forced labour or trafficking in persons.
- › Recruitment across international borders should respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and destination, and internationally recognized human rights, including the fundamental principles and rights at work, and relevant international labour standards. These laws and standards should be effectively implemented.
- › No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers.
- › The terms and conditions of a worker's employment should be specified in an appropriate, verifiable and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations, employment contracts and applicable collective agreements. They should be clear and transparent, and should inform the workers of the location, requirements and tasks of the job for which they are being recruited. In the case of migrant workers, written contracts should be in a language that the worker can understand, should be provided sufficiently in advance of departure from the country of origin, should be subject to measures to prevent contract substitution, and should be enforceable.
- › Workers' agreements to the terms and conditions of recruitment and employment should be voluntary and free from deception or coercion.

- › Workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment.
- › Freedom of workers to move within a country or to leave a country should be respected. Workers' identity documents and contracts should not be confiscated, destroyed or retained.
- › Workers should be free to terminate their employment and, in the case of migrant workers, to return to their country. Migrant workers should not require the employer's or recruiter's permission to change employer.
- › Workers, irrespective of their presence or legal status in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred.

The operational guidelines are meant to inform governments, enterprises and public employment services.

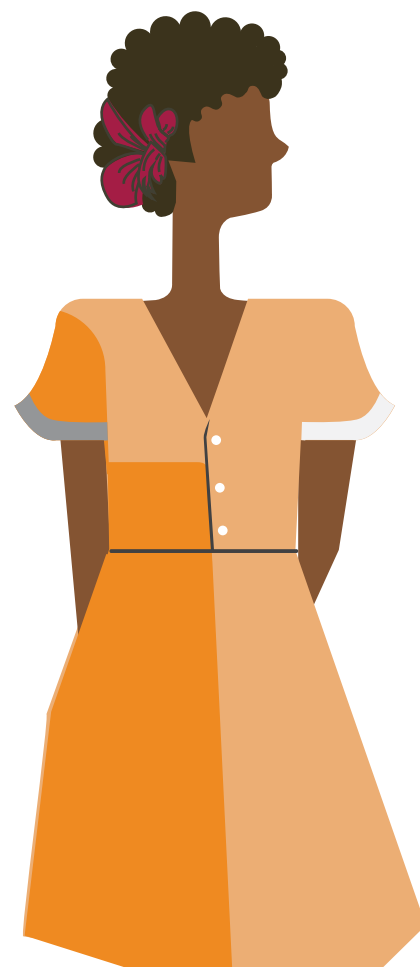
### **The ILO's 2014 Fair Migration Agenda**

In his report to the 103rd Session of the International Labour Conference in 2014, the Director-General identified the following areas of action for ILO's future work:

- › Promoting decent work in countries of origin, including the contribution of migrants
- › Formulating orderly and fair migration schemes in regional integration processes
- › Promoting bilateral agreements for well-regulated and fair migration between Member States
- › Instituting fair recruitment processes
- › Countering unacceptable situations (such as violation of fundamental rights)
- › Realizing the rights-based approach
- › Contributing to a strengthened multilateral rights-based agenda on migration
- › Tripartism, knowledge and capacity-building as cross-cutting issues

### **The ILO's 2006 Multilateral Framework on Labour Migration**

- › The framework is a comprehensive collection of principles, guidelines and best practices on labour migration policy, derived from relevant international instruments and a global review of labour migration policies and practices of ILO constituents.



- › It addresses the important themes of decent work for all, governance of migration, protection of migrant workers, promoting migration and development linkages, and expanding international cooperation.
- › It advocates gender-sensitive migration policies that address the special problems faced by women migrant workers.

### **The 2004 International Labour Conference's Resolution and Conclusions concerning a Fair Deal for Migrant Workers in a Global Economy and its Follow-up Plan of Action**

A fair deal for all migrant workers requires a rights-based approach, in accordance with existing international labour standards and ILO principles, which recognizes labour market needs and the sovereign right of all nations to determine their own migration policies, including determining entry into their territory and under which conditions migrants may remain.

The International Labour Conference recognized in 2004 that there are beneficial elements of labour migration such as non-inflationary economic expansion, job creation, growth and cross-fertilization of skills, technology exchange, rejuvenation of populations and stimulation of development through remittance flows. However, migrant workers continue to face undue hardship and abuse, and the number of migrants in irregular situations is rising. The following Plan of Action included:

- › development of a non-binding multilateral framework for a rights-based approach to labour migration;
- › identification of relevant action to be taken for a wider application of international labour standards and other relevant instruments;
- › support for implementation of the ILO Global Employment Agenda at national level;
- › capacity-building, awareness raising and technical assistance;
- › strengthening social dialogue;
- › improving the information and knowledge base on global trends in labour migration, conditions of migrant workers, and effective measures to protect their rights; and
- › mechanisms to ensure ILO Governing Body follow-up of the plan of action and ILO participation in relevant international initiatives concerning migration.



### 3.1. THE ILO's RESPONSE IN AFRICA AT THE CONTINENTAL LEVEL

The ILO's work in the region is guided by the following frameworks:

#### AUC's Agenda 2063

In January 2015, the AU Assembly of Heads of State and Government adopted Agenda 2063: The Africa We Want as a strategic framework for Africa's inclusive growth and sustainable development and to optimize the use of the continent's resources for the benefit of all Africans, together with the First Ten-Year Implementation Plan (2014–2023) of Agenda 2063, in which flagship projects, priority areas and policy measures to support the implementation of the continental development framework were outlined.

Africa's Agenda 2063 is integrated with the Global 2030 Agenda for Sustainable Development and shares common priorities for Africa's transformation. International migration, and particularly labour migration, is included in Africa's Agenda 2063 in Aspirations 1 and 2 and several Continental and Regional Economic Communities (RECs') strategies as follows:

#### Aspiration 1. A prosperous Africa based on inclusive growth and sustainable development

Goal 1: A High Standard of Living, Quality of Life and Well-being for All

Indicative National Strategies

- › 5. Implement AU frameworks on labour migration governance for development and integration and public-private partnership for jobs creation and inclusive development
- › 6. Develop/implement policies that will enhance free movement of people and workers
- › 7. Initiate policies that would lead to better and more responsible labour migration flows

#### Aspiration 2. An integrated continent, politically united and based on the ideals of Pan Africanism and vision of Africa's Renaissance

Goal 8: United Africa (Federal or Confederate)

Indicative National Strategies.

- › 1. Domesticating all protocols leading to free movement of persons within RECs
- › 2. Domesticating all the ILO Conventions on labour migration as appropriate to each Member State
- › 3. Review all labour bilateral agreements with other Member States and non-member States
- › 13. Develop capacity to manage the flow of cross-border migration

## 3

### CONTINENTAL RESPONSE

*The ILO's strategy on labour migration and mobility in the African region is guided by its International Labour Standards and Decent Work Agenda, and implemented in close collaboration with the World of Work actors (Ministries of Labour and workers' and employers' organizations from the 54 African countries).*



*Labour migration is a current and historical reality in Africa impacting directly on the economies and societies of African States in important ways.*

*- AU, The Revised Migration Policy Framework, 2018*

with attention to the concerns of women, youth and vulnerable groups

#### **Continental/RECs Strategies**

- › 1. Develop/implement advocacy strategies/programmes for ratification by Member States
- › 4. Develop/implement regional frameworks that enhance access at points of entry to women involved in cross-border trade

#### **AUC's Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa and the AU Five-year Priority Programme (5YPP): Key Priority Area (KPA) 5: Labour Migration and Regional Economic Integration**

AUC's Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development, which was adopted by AU Assembly of Heads of States, in January 2015 in Addis Ababa, places labour migration and regional economic integration as one, and social protection as another of its six key priority policy areas.

In order to facilitate its implementation, a 5YPP on Employment, Poverty Eradication and Inclusive Development, (2018–2022), accompanies the Ouaga +10 Declaration with the following expected outcomes on labour migration:

- › Outcome 1: Increased ratification, domestication and implementation of key international labour standards on labour migration
- › Outcome 2: Improved use of databases on labour migrants' skills, economic activities, education, working conditions and social protection
- › Outcome 3: Inter-regional and intra-regional skills and labour matching operational
- › Outcome 4: Social security extended to migrant workers and their families through access and portability regimes compatible with international standards and good practice
- › Outcome 5: Labour migration governance, policy and administrative responsibilities effectively carried out by capable labour market institutions in RECs and Member States
- › Outcome 6: Tripartite policy consultation and coordination on labour migration operational at continental and regional levels

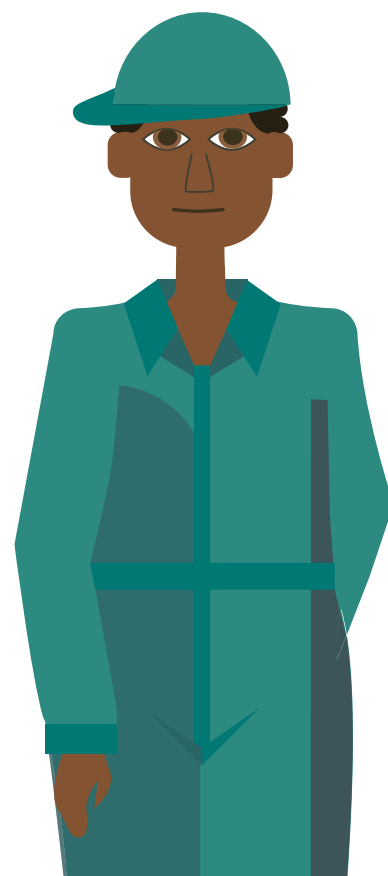
#### **Revised Migration Policy Framework for Africa (MPFA) and Plan of Action (2018–2030): Labour migration recommended strategies**

The AU revised MPFA (2018–2030) and Plan of Action was adopted in 2018. The MPFA reflects the current migration dynamics in Africa, and

offers a revised strategic framework to guide AU Member States and RECs in the management of migration. It provides comprehensive and integrated policy guidelines to AU Member States and RECs to take into consideration in their endeavours to promote migration and development and address migration challenges on the continent. Labour migration is one of the nine thematic areas of the MPFA. Others include: Border Management; Irregular Migration; Forced Displacement; Human Rights of Migrants; Internal Migration; Migration Data Management; Migration and Development; and Inter-State Cooperation and Partnerships.

### **National Labour Migration Policies, Structures and Legislation**

- i. Ratify and domesticate all the ILO Conventions on labour migration as appropriate to each Member State and harmonize national laws and regulations with international labour standards.
- ii. Create transparent (open) and accountable labour recruitment and admission systems, based on clear legislative categories and immigration policies that are harmonized with labour laws.
- iii. Provide access to accurate information on labour migration at pre-departure and post-arrival stages, including terms and conditions of work, remedies and access to legal advice in the event of violations.
- iv. Align national laws, policies and regulations; bilateral and multilateral agreements; and voluntary codes of conduct with the ILO General Principles and Operational Guidelines for Fair Recruitment.
- v. Ensure that national laws, including constitutional, administrative and civil law and labour codes, provide women migrant workers, in particular domestic workers, with the same rights and protection that are extended to all workers.
- vi. Monitor and enforce compliance with recruitment regulations, including standardized contracts of employment which are free, fair, fully consented to, transparent and enforceable.
- vii. Promote consolidation and professionalization in the recruitment industry, keeping in check the maze of subagents that are often involved, with the aim of turning (public and private) recruiters into comprehensive 'one-stop shops' for employers and migrants, offering comprehensive services, including training and skills certification, job placement and travel arrangements.
- viii. Strengthen or make provision for adequate supervision of working conditions for all migrants by the competent labour market authorities or duly authorized bodies.
- ix. Establish effective complaint mechanisms and ensure that migrants, especially migrant women, have recourse to enforce timely and affordable remedies. Ensure that migrant workers are able to make complaints against their employers or others, including on grounds of sexual harassment in the workplace, and have access to remedies



*Establishing regular, transparent, comprehensive and gender-responsive labour migration policies, legislation and structures at national and regional levels, can result in significant benefits for States of origin and destination.*

*- AU, The Revised Migration Policy Framework, 2018*

including for unpaid wages and compensation for violations of labour rights, without fear of reprisals and expulsion.

- x. Build national capacity to manage labour migration by developing national labour migration policies and legislation consistent with overall population policy, and government structures to manage labour migration. The latter should include the creation of focal points within relevant ministries to handle labour migration issues, and establish institutional mechanisms for enhanced cooperation between government authorities, worker organizations and employer associations.
- xi. Promote the standardization of bilateral labour agreements to ensure the protection of migrant workers and facilitate remittance transfers.
- xii. Ensure coherence at the national level between bilateral and regional agreements pertaining to the movement of workers, national labour market policies, migration policies and other relevant policy areas, such as health or agriculture, in line with international human rights law, norms and standards. Key stakeholders, including civil society, social partners, employers, trade unions, women's rights organizations, training institutions and migrants, must be consulted in developing labour-migration-related strategies.
- xiii. Domesticating RECs' free movement of persons protocols and provisions.
- xiv. Promote equality of opportunity and the protection of the rights of migrant women by ensuring that labour migration policies and practice are gender-sensitive and non-discriminatory, in recognition of the increasing feminization of labour migration.
- xv. Promote respect for, and protection of, the rights of labour migrants including combating discrimination and xenophobia through, inter alia civic education and awareness-raising activities.
- xvi. Incorporate mechanisms that monitor and evaluate the provision of decent work for all migrants and enable them to access legal provisions for social protection.
- xvii. Promote HIV/AIDS awareness-raising and prevention campaigns targeted towards labour migrants, with participation of social partners, in order to combat the spread of HIV/AIDS within the labour force.
- xviii. Facilitate technical cooperation activities with international agencies, including ILO, the International Organization for Migration (IOM), the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and other concerned entities, in order to enhance the developmental effects of labour migration.
- xix. Enhance national and regional labour migration data collection, analysis and exchange to document the conditions and needs of migrant women and men workers and their families.

- xx. Facilitate the integration of all migrants, women and men, in the labour market, including in the education and training sector, removing gender-based barriers that restrict women from being recruited, as well as the right to join trade unions, to form community organizations; to associate and collectively bargain.
- xxi. Set up national and subregional social dialogue mechanisms to address migrant labour issues, including the challenges faced by women migrant workers.
- xxii. Provide social protection and social security benefits, particularly unemployment insurance, compensation for employment injury, long-term illness, death benefits, disability, parental leave, supplementary insurance schemes, and old-age pension for all labour migrants, including women migrant workers, while working abroad and/or upon their return.
- xxiii. Incorporate the laws and rules of host countries when recruiting non-national migrant labour for employment, while contracts of employment must be supervised and retained by the governments of the host and sending States.
- xxiv. The incorporation of 'good practice' strategies in managing migration recognizes the vulnerability of migrant labour to unemployment, at times when national economies experience a reduction in the requirement of labour. Consequently, States which have made arrangements to recruit migrant labour are urged to ensure labour migrants experiencing job losses are adequately provided for, or receive financial assistance for return to their States of origin.
- xxv. Ensure that indigent regular migrants who may lose their job are not returned to their State of origin, unless there is an inter-State agreement to this effect and s/he shall not have her/his right of residence and work permit withdrawn. These migrants should receive equality of treatment regarding security of employment, alternative employment, relief work and return.
- xxvi. Incorporate equality of opportunity measures that ensure equal access for labour migrants and nationals in the areas of employment, occupation, working conditions, remuneration, social security, education and geographical mobility.
- xxvii. To aid the portability of qualifications, encourage the conclusion of mutual recognition agreements and ratify the 2014 Addis Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States and establish bodies and procedures in compliance with the agreement.
- xxviii. Implement the AU Higher Education Harmonization Strategy for Africa (2016–2025) and the Continental Education Strategy for Africa (2016–2025).



- xxix. Develop National Qualifications Frameworks to facilitate the portability of qualifications and the development of a Continental Qualifications Framework.
- xxx. Implement policies and processes that facilitate student and academic mobility.
- xxxi. Develop and apply Technical and Vocational Education and Training (TVET) quality assurance standards in order to facilitate skills and competencies mobility within RECs and at the continental level.
- xxxii. Domesticate the Implementation Plan on Ouagadougou + 10 and the Labour Market Information System.
- xxxiii. Domesticate the AU Social Protection Policy and Informal Economy Framework.

### **Regional Cooperation and Harmonization of Labour Migration Policies**

- i. Provide visas on arrival for all African citizens.
- ii. Enhance cooperation and coordination amongst States in sub-regions and regions with a view to facilitating free movement at bilateral, subregional and regional levels.



Photo: Nathaniel Tetteh



- iii. Maintain open and continued contact and communication between States of origin and destination in order to ensure fair working conditions for nationals working abroad.
- iv. Develop technical implementation frameworks and administrative processes for labour mobility agreements by engaging all the relevant actors, such as trade and immigration authorities, the private sector and professional boards, and include coordination mechanisms and instruments between the relevant agencies and actors.
- v. Harmonize and strengthen implementation of AU and REC free movement provisions related to residence and establishment, in order to aid labour mobility.
- vi. Revise national employment policies and labour codes in order to align them to AU and REC free movement provisions.
- vii. Monitor and evaluate the implementation of Free Movement of Persons protocols and provisions, and identify activities and policies which can enhance their implementation.
- viii. Undertake research which highlights the economic gains increased mobility will bring, including labour market analysis to identify imbalances in labour markets and opportunities for skills matching, and use the findings to promote the implementation of free movement regimes.
- ix. Undertake skills gaps analyses and skills forecasting to determine the skills that will be necessary in the short, medium and long term for the economic development of the regions, and support Member States in adapting their education systems and training courses towards qualifications that will be needed across the region.
- x. Enhance the AU Labour Migration Advisory Committee to support regional economic integration and development.

*"... beyond the financial support required to fast-track implementation, constituents should promote free movement of persons in Africa ... the 2015 AU Declaration on Migration had prioritized this; an important step for facilitating labour migration."*

*- Ambassador Maiyegun (AUC) at the 13th African Regional Meeting of the ILO*

#### **Cross-cutting issues including labour migration work:**

1. Migration and Development
2. Migration Data and Research
3. Human Rights of Migrants
4. Migration, Poverty and Conflict
5. Migration and Health
6. Migration and Environment

7. Migration and Gender
8. Migration, Children, Adolescents and Youths
9. Migration and Older Persons
10. Inter-State and Inter-regional Cooperation

### **Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (AU Free Movement Protocol) adopted in 2018**

The AU Free Movement Protocol contains the following labour migration-mobility-related provisions.

#### **Article 5. Progressive Realization**

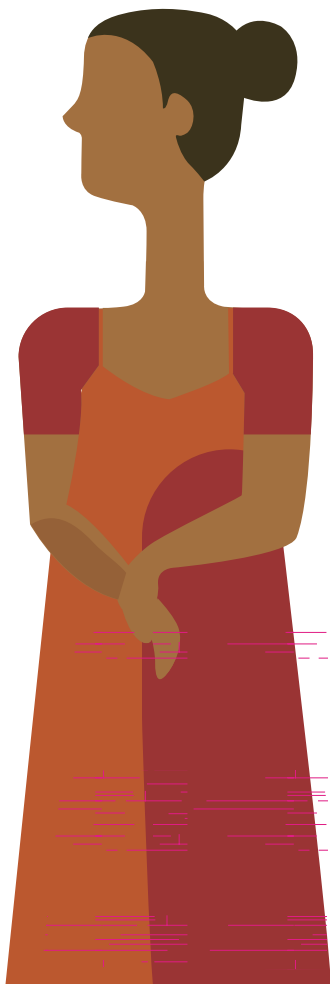
1. The free movement of persons, right of residence and right of establishment shall be achieved progressively through the following phases:
  - » a) phase one, during which States Parties shall implement the right of entry and abolition of visa requirements;
  - » b) phase two, during which States Parties shall implement the right of residence;
  - » c) phase three, during which States Parties shall implement the right of establishment.

#### **Article 14. Free Movement of Workers**

1. Nationals of a Member State shall have the right to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State.
2. A national of a Member State accepting and taking up employment in another Member State may be accompanied by a spouse and dependants.

#### **Article 15. Permits and Passes**

1. A host States Party shall issue residence permits, work permits, or other appropriate permits or passes to nationals of other Member States seeking and taking up residence or work in the host Member State.
2. Permits and passes shall be issued in accordance with the immigration procedures applicable to persons seeking or taking up residence or work in the host Member State.
3. The procedures referred to in paragraph 2 shall include the right of a national of another Member State to appeal against a decision denying them a permit or pass.



## Article 18. Mutual Recognition of Qualifications

1. States Parties shall individually or through bilateral, multilateral or regional arrangements, mutually recognize academic, professional and technical qualifications of their nationals to promote the movement of persons among the Member States.
2. States Parties shall establish a continental qualifications framework to encourage and promote the free movement of persons.

## Article 19. Portability of Social Security Benefits

- › States Parties shall, through bilateral, regional or continental arrangements, facilitate the portability of social security benefits to nationals of another Member State residing or established in that Member State.

## Article 23. Remittances

- › States Parties shall through, bilateral, regional, continental or international agreements facilitate the transfer of earnings and savings of nationals of other Member States working, residing or established in their territory.

## Article 24. Procedure for the Movement of Specific Groups

1. States Parties may in addition to the measures provided for by international, regional and continental instruments, establish specific procedures for the movement of specific vulnerable groups including refugees, victims of human trafficking and smuggled migrants, asylum seekers and pastoralists.
2. Procedures established by a Member State under this article shall be consistent with the obligations of that Member State under the international, regional and continental instruments relating to the protection of each group of persons referred to in paragraph 1.

## Article 25. Cooperation between Member States

1. States Parties shall in accordance with the African Union Convention on Cross-Border Cooperation coordinate their border management systems in order to facilitate the free and orderly movement of persons.
2. States Parties shall record, document, and upon request, make available all forms of aggregated migration data at the ports or points of entry or exit from their territory.
3. States Parties shall through bilateral or regional arrangements cooperate with each other by exchanging information related to the free movement of persons and the implementation of this Protocol.



*The JLMP addresses the needs and concerns of migrant workers, their families and their organizations. Actions focus on knowledge sharing combined with advisory services, training, advocacy, and technical assistance to RECs and mobilization of government, employers and trade union representatives, civil society, and public opinion to promote progress on Africa's intra-regional labour migration and mobility.*

## **Article 26. Coordination and Harmonization**

1. In accordance with article 88 of the Abuja Treaty and guided, as appropriate, by the Implementation Roadmap annexed to this Protocol, States Parties shall harmonize and coordinate the laws, policies, systems and activities of the regional economic communities of which they are members which relate to free movement of persons with the laws, policies, systems and activities of the Union.
2. States Parties shall harmonize their national policies, laws and systems with this Protocol and guided, as appropriate, by the Implementation Roadmap annexed to this Protocol.

### **AU/ILO/IOM/UNECA Joint Programme on Labour Migration Governance (JLMP) for Development and Integration in Africa**

The JLMP is a significant response to Africa's implementation of the Global Compact for Safe, Orderly and Regular Migration since it is a region-wide programme that contains many of the same priority areas of work as the GCM, including to help foster regular (and reduce irregular) migration in a fair and effective manner, with respect for human and labour rights.

Indeed, JLMP represents a broad implementing strategic framework in which AUC, ILO, IOM, UNECA can anchor most of their work in the region, particularly in supporting Africa's RECs. JLMP provides a strategic framework guiding African Member States, social partners and RECs' work on labour migration in the African continent.

The goals and objectives of the JLMP derive from the long-term aspiration of achieving an effective regime of labour mobility for integration and development in Africa, with the necessary governance to sustain it. It also aligns with the strategic themes of the AU Migration Policy Framework and carries forward the priority actions of the AU Youth and Women Employment Pact, and the AU Employment Creation, Poverty Eradication and Inclusive Development Plan of Action. The JLMP's priority thus strategically responds to the Africa-EU Partnership on Mobility, Migration and Employment and addresses the needs and concerns of migrant workers, their families and their organizations.

It focuses on facilitating intra-continental free movement of workers as a crucial means of advancing regional integration and development in Africa and includes as its main activity areas and action the following outputs:

- › increased ratification and implementation of international labour standards;
- › implementation of free-circulation regimes in RECs and adoption of national policy;

- › expanded engagement of labour institutions in labour migration governance;
- › tripartite policy dialogue and coordination at national, REC and continental level;
- › decent work for migrant workers with effective application of labour standards;
- › extension of social security coverage to migrants;
- › resolution of skills shortages and increased recognition of qualifications; and
- › obtaining relevant and comparable labour migration and labour market data.

*Most sub-Saharan African countries face labour and skills shortages in specific sectors, while at the same time battling with unemployment and a growing youth bulge. Regional skills pooling enabled through mobility can help to address this challenge and allocate labour where it is most productive and needed.*

*- AU Revised Migration Policy Framework, 2018*



Photo: Sylvian Liechti





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**<https://www.ilo.org/africa/areas-of-work/labour-migration/lang--en/index.htm>**

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