

On the move

Mobility and governance in Southern Africa

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Southern Africa's unique migration patterns require collaboration among Southern African countries and improved policies at national and regional level that align with continental aspirations. As South Africa is the main regional migration hub, its approach is key in shaping these developments. Critical for the region is ensuring safe, orderly and regular migration that can stimulate national and regional development. However, much still stands in the way of this goal.

Key findings

- ▶ Southern Africa is characterised by high level mobility in the form of short-term border crossings, circular movements and permanent stays.
- ▶ Migration in the region is largely driven by employment opportunities.
- ▶ Comprehensive regional data on skills is lacking.
- ▶ Most skilled migrants come from East African countries to fill demand in South Africa's skill intensive sectors.
- ▶ Low skilled migration follows traditional patterns of contract labour to South Africa.
- ▶ All Southern African countries, in particular Angola, Botswana, Mauritius, Mozambique, the Seychelles and South Africa, host migrants from within and outside the region, at all skill levels.
- ▶ South Africa is among the top 20 destinations for migrants worldwide.
- ▶ Southern African countries have taken steps to pursue regional integration. However, the regional framework is based on agreements that are aspirational and non-binding, rather than obligatory.
- ▶ Bilateralism is the preferred option for Southern African states.

Recommendations

For the African Union:

- ▶ Promote effective coordination mechanisms to ensure migration policies within regional economic communities (RECs) are harmonised in line with the continental integration framework.
- ▶ Strengthen the capacity of RECs and member states to collect and analyse migration data in order to assess labour demand and skill needs in the region.

For SADC:

- ▶ Enhance the collection, analysis and dissemination of migration data in order to promote evidence-based policy.
- ▶ Better integrate the concepts of free trade and free movement of labour with regional economic integration and development.
- ▶ Enable meaningful engagement between civil society organisations and national sub-regional and regional institutions through formal access mechanisms.

For SADC member states:

- ▶ Adopt national policies that protect against forced labour, exploitation and trafficking and provide migrants with access to adequate social protection.
- ▶ Adopt national minimum wage laws that require the regular and predictable payment of wages.
- ▶ Enact legislation that grants access to pension schemes and guarantees the portability of social security coverage between and among countries. This will prevent migrants from losing entitlements.

For the South African government:

- ▶ Introduce a point-based system for the recruitment of highly skilled migrants.
- ▶ Revise the permitting regime which doesn't provide adequate options for migrants with lower skill levels.
- ▶ Compensate for the potential adverse consequences of labour migration that could affect certain segments of the South African population.

Migration trends in Southern Africa

Between 1990 and 2019, the number of migrants living in sub-Saharan Africa increased from 13.3 million to 23.6 million.¹ Approximately 18 million or 64% of migrants living in sub-Saharan Africa originate from the same region, indicating that African migration remains overwhelmingly intra-continental.² The share of international migrants as a percentage of the total population decreased from 2.7% to 2.2%, suggesting that the overall population in the region has grown more rapidly than the migrant population.³

By contrast, the Southern Africa region presents a different migration scenario.⁴ While the number of international migrants in the region increased from 4.2 million in 2000 to 7.8 million, in 2019 the overall population actually grew more slowly from 217 to

354 million, or 63%.⁵ This explains why the number of international migrants slightly increased from 2.8% of the population in 2000 to 2.9% in 2019 (Table 1).

Countries such as Angola and the Democratic Republic of Congo (DRC), however, recorded an annual population growth above 3% in 2018, implying a higher increase of the overall population over the migrant population. Both are among the top 20 countries with the largest proportional population change in Africa between 2009 and 2019.⁶

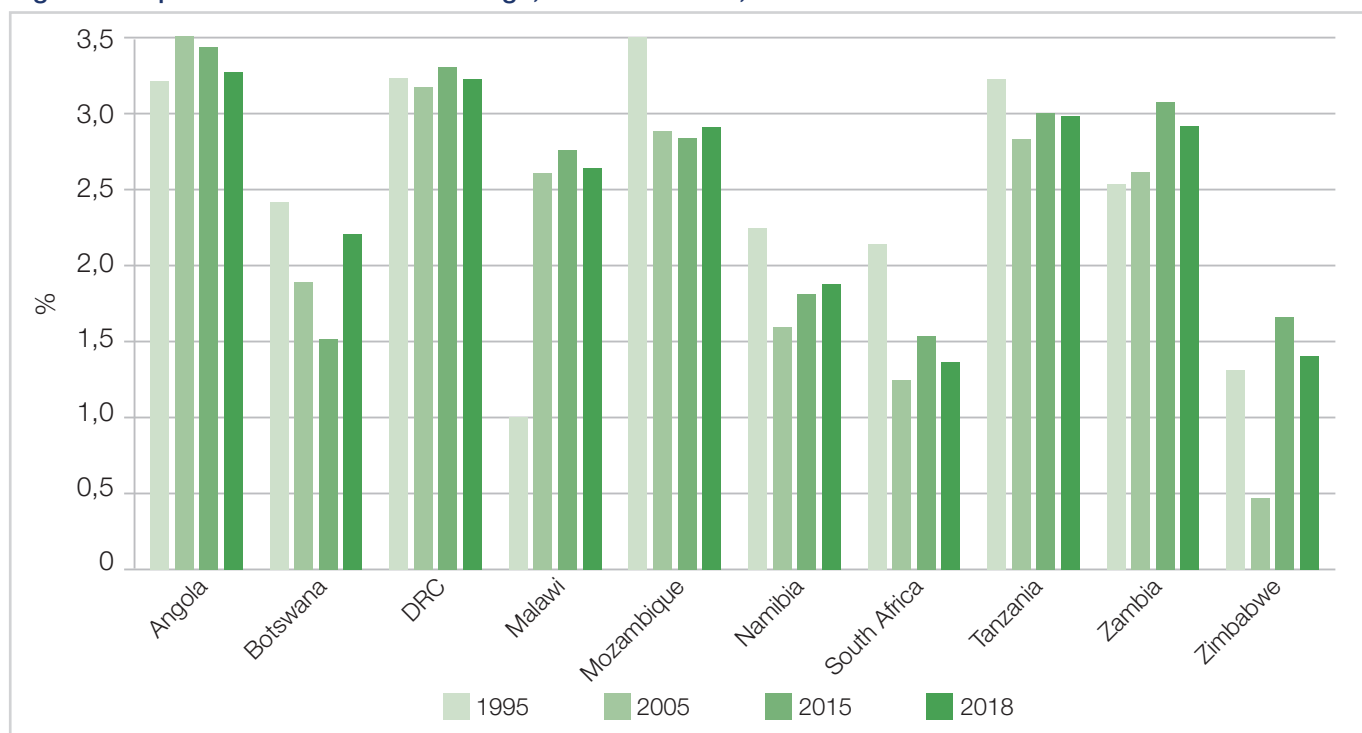
If this trend continues, their overall population will double in size in approximately 20 years. In the same period, Namibia, South Africa and Zimbabwe recorded low population growth, below 2%. The population annual rate of change for all Southern African countries is shown in Figure 1.

Table 1: Population growth and migrant stock increase, Southern Africa, 2000–2019

	Southern Africa – population growth		Southern Africa migrant stock		International migrants as a share of total population (%)	
	2000	2019	2000	2019	2000	2019
Angola	16 395	31 825	46 108	669 479	0.3	2.1
Botswana	1 643	2 304	74 934	110 596	4.6	4.8
Comoros	542	851	13 799	12 504	2.5	1.5
DRC	47 105	86 791	744 387	963 833	1.6	1.1
Eswatini	1 005	1 148	34 084	32 310	3.4	2.8
Lesotho	2 032	2 125	6 167	6 928	0.3	0.3
Madagascar	15 766	26 969	23 541	34 934	0.1	0.1
Malawi	11 148	18 629	232 620	247 652	2.1	1.3
Mauritius	1 185	1 270	15 543	28 849	1.3	2.3
Mozambique	17 711	30 366	195 702	334 665	1.1	1.1
Namibia	1 794	2 495	135 547	107 561	7.6	4.3
Seychelles	81	98	6 574	12 926	8.1	13.2
South Africa	44 968	58 558	1 016 963	4 224 256	2.3	7.2
Tanzania	33 499	58 005	949 600	509 166	2.8	0.9
Zambia	10 416	17 861	343 703	170 249	3.3	1.0
Zimbabwe	11 881	14 645	410 109	411 257	3.5	2.8
Total	217 171	353 940 101	4 249 381	7 877 165	2.8	2.9

Source: United Nations Department of Economic and Social Affairs, 2019

Figure 1: Population annual rate of change, Southern Africa, 1995–2018



Source: World Bank, 2019

Between 2000 and 2019 the international migrant stock in Southern Africa – defined as the number of international migrants living in the region at a given point in time – increased from 4.2 million to 7.8 million (Table 1). The greatest proportional increases have been recorded in Angola, Botswana, Mauritius, Mozambique and Seychelles.

In the Seychelles, migrant workers represent over 20% of the labour force and are employed in formal sectors such as construction, tourism and manufacturing.⁷ Mauritius also actively recruits foreign workers through bilateral temporary work programmes to meet labour needs.⁸ Temporary migrant workers are employed in labour intensive sectors of the economy such as sugarcane production, fishing, construction and manufacturing.

In the same period, South Africa recorded the largest increase in the actual number of international migrants from 1 million to 4.2 million (Table 2). South Africa is also the main receiving country of migrants in Africa and among the top 20 destinations for migrants worldwide.⁹ The largest migrant-source countries are Mozambique, Zimbabwe and Lesotho.¹⁰ Statistics South Africa (StatsSA) provides a lower estimate of 3.8 million foreign nationals in the country, including those who are

naturalised, documented and undocumented migrants, as well as labour and circular migrants.

In addition to South Africa, oil-rich Angola attracts international migrants from the region and from countries retaining strong language and cultural links with Angola, such as Cape Verde and São Tomé and Príncipe.¹¹ Between 2000 and 2019 the international migrant stock in the country has increased by 1 300% (Table 2).

From 2000–2020 SA was the top migrant receiving country in sub-Saharan Africa

In Mozambique, international migrants originate from different countries including Zimbabwe, Zambia, Malawi, Nigeria, Burundi, DRC, Ethiopia, India, Pakistan, Lebanon and Portugal. Low skilled migrants from neighbouring countries are involved in cross-border trade and artisanal mining in the Mozambican provinces of Nampula, Manica, Zambesi and Cabo Delgado, while skilled migrants are employed in the extractive (oil, gas and mining) and education sectors.¹²

Zambia is a recipient of migrants from West Africa, some of whom work in the mining industry, Somali traders and Chinese workers.¹³ Malawians also migrate to Zambia, where they work on farms and in the domestic sector due to law enforcement that is not especially stringent and the possibility to remain undocumented.¹⁴ Table 3 shows that in 2017, over 14 000 Malawian migrants lived in Zambia.

In Malawi, inward migration is driven mainly by economic reasons but also by political unrest. Migrants from Burundi, Eritrea, Somalia, Rwanda and Ethiopia enter the country irregularly through uncharted routes. Some are in transit to Mozambique, Zimbabwe and South Africa, while others have established informal businesses in the country.¹⁵ The largest share of international migrants from the Southern African Development Community (SADC) region is made up of migrants from Mozambique (55 184), followed by Zambians (43 144) and Zimbabweans (37 432) (Table 3).

Botswana is a destination for neighbouring Zimbabwean migrants whose number has drastically increased during the first decade of the 2000s due to political and economic instability.¹⁶ Migration from Malawi, Mozambique and Zambia to Zimbabwe's commercial farms has declined dramatically since the land transfer programme,¹⁷ yet a large migrant population is still present in the country (Table 3).¹⁸

The share of international migrants as a percentage of the total population varies significantly across the different countries in the region. While it is high in the Seychelles (above 13%), Botswana (4.8%) and Namibia (4.3%), it is below 2% in the Comoros, the DRC, Lesotho, Madagascar, Malawi, Mozambique, Tanzania and Zambia (Table 1). South Africa's share of international migrants in proportion to the population is above 7%, significantly higher than the average in Southern Africa's 2.9% (Table 1), and double the world average of 3.5%.

Table 2: Total migration stock, 1995–2019

Country	International migrant stock at mid-year					
	1995	2000	2005	2010	2015	2019
Sub-Saharan Africa	14 275 437	13 151 229	14 222 466	15 855 936	21 337 333	23 573 485
Southern Africa	5 297 728	4 249 381	4 247 397	4 733 456	7 074 934	7 877 165
Angola	39 813	46 108	61 329	332 126	632 178	669 479
Botswana	40 168	74 934	84 614	94 614	103 268	110 596
Comoros	13 939	13 799	13 209	12 618	12 555	12 504
DRC	1 816 963	744 387	622 869	588 950	824 492	963 833
Eswatini	35 157	34 084	33 392	32 637	32 352	32 310
Lesotho	7 204	6 167	6 290	6 414	6 572	6 928
Madagascar	21 177	23 541	26 058	28 905	32 075	34 934
Malawi	241 624	232 620	221 661	217 722	232 803	247 652
Mauritius	7 493	15 543	19 647	24 836	28 585	28 849
Mozambique	168 256	195 702	264 679	306 471	321 794	334 665
Namibia	115 372	135 547	107 347	103 826	101 618	107 561
Seychelles	5 148	6 574	8 997	11 420	12 791	12 926
South Africa	1 003 807	1 016 963	1 351 031	2 114 801	3 816 695	4 224 256
Tanzania	1 106 043	949 600	771 153	309 847	384 567	509 166
Zambia	244 338	343 703	252 895	149 962	132 107	170 249
Zimbabwe	431 226	410 109	402 226	398 307	400 482	411 257

Source: United Nations Department of Economic and Social Affairs, 2019

With regard to regional net migration, defined as the difference between the number of immigrants and the number of emigrants at a given time period, Southern Africa alternated between being net sending and receiving regions. Between 2000 and 2020, Tanzania (63 000) and Zimbabwe (121 000) were among the top sending countries in sub-Saharan Africa, while South Africa (165 000) was the top receiving country, followed by Angola (41 000).¹⁹ StatsSA estimated the annual positive net migration in South Africa to be between 160 000 and 200 000.²⁰

Intra-regional migration is on the rise

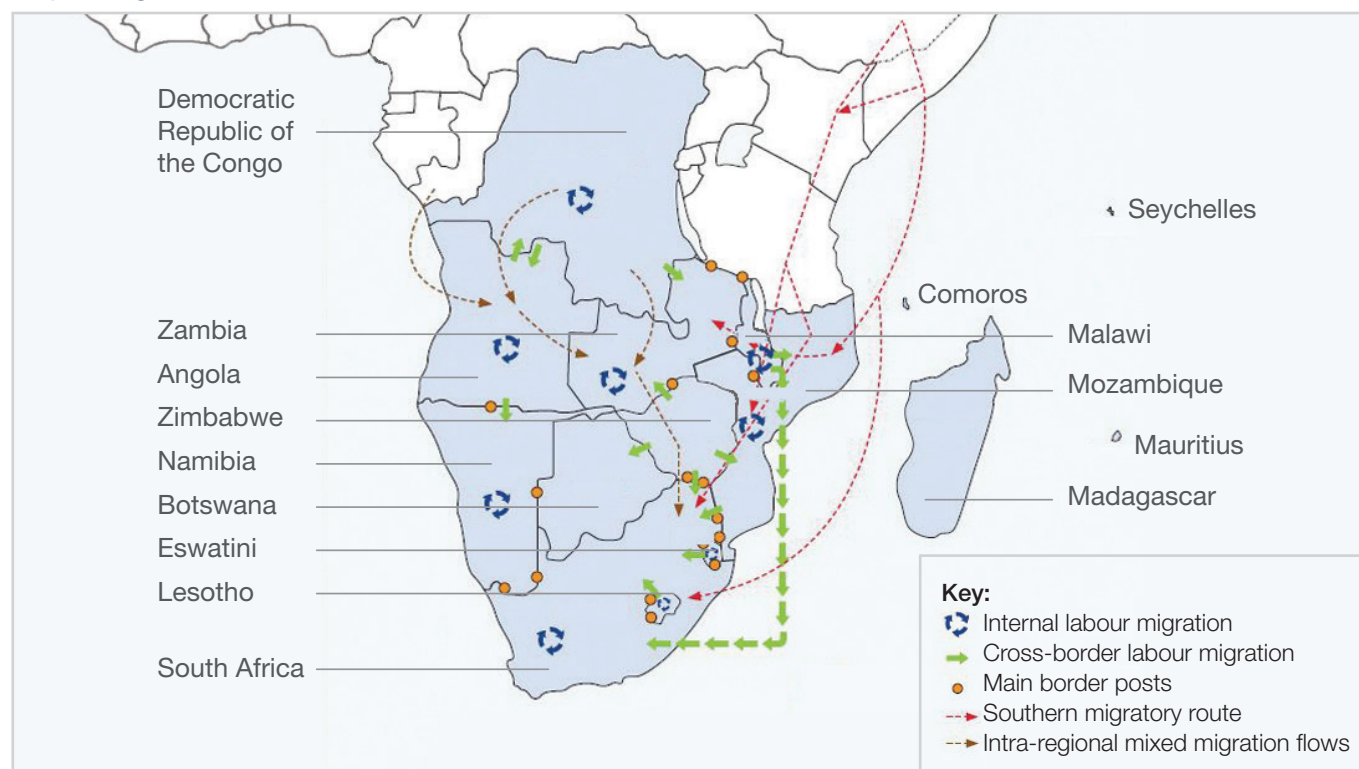
Intra-regional migration is a key feature on the African continent and Southern Africa in particular has recorded strong increases as a destination for intra-African migrants.²¹ The migration scenario in the region is characterised by high-level mobility which takes different trajectories, from short-term cross-border movements, to circular movements and permanent stays.²² Countries in Southern Africa are both receiving and sending migrants. In 2017, for example, 53% of the total number of Southern African migrants were living outside the region.²³

Map 1 illustrates the variety of migratory movements across Southern Africa, including regional labour migration trends. Patterns and trends are complex to understand due to limitations of migration statistics. Data on migration stock do not provide disaggregated information on immigration status, while information on flows rely often on incomplete or incorrect data.²⁴ National official statistics need to be triangulated with household surveys and private sector data for a more accurate analysis of labour migration patterns.²⁵

Since 2015, the African Union (AU) has been publishing reports on labour migration statistics in Africa. Data provided by the different member states were sourced from population and housing censuses, demographic projections and labour force surveys, while administrative records were used to estimate migration flows.

Migration in Southern Africa is driven by the demand for labour – low skilled, semi-skilled and highly skilled.²⁶ Comprehensive regional data on skills is lacking. However, evidence suggests that most skilled migrants come from outside the region,²⁷ largely along the eastern corridor from Kenya and Uganda. These migrants fill the

Map 1: Migration routes in Southern Africa



Source: International Organization for Migration (IOM), 2019, <https://bit.ly/2SvRzhq>

demand in South Africa's skill intensive sectors of the economy such as finance, education and information technology.²⁸ This indicates that migrants with limited skills move shorter distances, compared to those individuals who are highly skilled.²⁹ However, highly skilled workers from the region also migrate to South Africa, notably from Zimbabwe and Zambia, to work in education and information technology (Map 1).

In 2005, 10% of Lesotho migrants to South Africa were working in skilled occupations. This percentage has increased since the enactment of the 2002 Immigration Act which facilitates the recruitment of skilled workers.³⁰

In the early 2000s the entry into force of the Immigration Act of 2002 marked the beginning of an era of liberalised policies of entry and stay in South Africa. The country adopted a more liberal immigration approach, to raise the skills levels of the labour force, relaxing immigration requirements for highly skilled workers – i.e. science and mathematics teachers, technicians and researchers.³¹

Similarly, the National Development Plan 2030 recommended the adoption of a more open immigration approach to expand the supply of high level skills and the relaxation of immigration requirements for highly skilled workers.³² In 2019, approximately 7 000 critical skills visas were granted by the Department of Home Affairs.³³

The 2017 White Paper on international migration (the White Paper hereinafter) encourages attracting and retaining highly skilled migrants. It proposes the introduction of a point-based skill selective immigration policy, similar to the ones adopted in Australia, Canada and New Zealand, to replace the current employer-driven approach.

An immigrant-driven strategy, combined with a critical skills list or quota, represents a more flexible tool for the selection of immigrants on the basis of their human capital characteristics.³⁴ A point-based system has also the advantage of transparency and allows potential immigrants to self-assess their visa applications. Points can be awarded according to certain criteria such as age, language skills, level of educational qualifications and work experience.

The policy of granting visas to highly skilled migrants became a necessity in view of the growing proportion of the skilled labour force leaving South Africa. It is

estimated that between 1989 and 2003 – which was the last year the Department of Home Affairs collected statistics on emigration³⁵ – 520 000 South Africans had emigrated. In particular, the 'brain drain' has affected doctors and other medical personnel. In 2000, nearly 30% of SADC-born physicians were resident outside their country of birth. Of these, one in five were from South Africa.³⁶

Within the sub-region, South Africans emigrate mostly to Angola, Botswana and Zimbabwe (Table 3), but larger movements have occurred towards other destinations such as the United Kingdom and Australia, linking intra- and extra-African migration.³⁷ It is estimated that, in 2017, 77% of all South African emigrants resided in one of the following five countries: Australia, New Zealand, UK, USA and Canada.³⁸

However, the number of emigrants is likely to be underestimated as they are classified based on citizenship rather than on country of birth. In 2013, for example, 61% of the South African-born population in the UK had British citizenship, while 7% were citizens of other countries.³⁹

Migrants with limited skills move shorter distances than those who are highly skilled

The supply and demand of semi-skilled and low skilled workers are linked to Southern Africa's long history of managed labour migration from countries such as Lesotho, Mozambique, Botswana, Swaziland and Zimbabwe. Since the early 19th century, South Africa has recruited migrant labourers from neighbouring countries for its mining, farming and service sectors.

Since the early 2000s, the decline of mining and an increased interest in hiring mineworkers from within South Africa has led to a huge drop in the number of foreign miners. The percentage of foreign miners in the workforce has halved, from 60% at the end of the 1990s to 30% in 2013.⁴⁰ The Employment Bureau of Africa (TEBA) estimates that by 2023 there will be no foreign migrants on the South African mines.⁴¹ The reduction of foreign mineworkers has resulted in a decline in remittance flows from mining areas, a growth in illegal mining and an

Table 3: Southern Africa migrant stock by destination, 2017

Source country	Destination country													
	Angola	Botswana	DRC	Lesotho	Madagascar	Malawi	Mozambique	Namibia	South Africa	Tanzania	Zambia	Zimbabwe	Southern Africa	World
Angola		3 677	197 499	13				34 405	65 716	2 417	44 339		348 066	661 595
Botswana				110				610	69 160	411	962	4 039	75 292	82 914
DRC	258 105	3 513				2 250	2 588	2 954	50 340	105 174	22 670	3 204	450 798	1 849 863
Lesotho		3 375					8 685	115	312 537	270			324 982	327 926
Madagascar		663							707				1 370	158 873
Malawi		4 761		36			85 839	341	102 327	12 226	14 127	107 849	327 506	355 596
Mauritius		1 948			312			98	14 043	793			17 194	164 008
Mozambique	1 692	1 227		26		55 184		125	675 480	17 460	1 364	94 382	846 940	954 042
Namibia	6 046	1 911		9		–			174 043	1 953	660		184 622	192 392
South Africa	42 688	38 607		2 680		8 325	9 856	7 872		7 698	3 221	18 610	139 557	934 364
Tanzania		3 073		87		9 682	8 476	1 018	15 823		6 208		44 367	322 830
Zambia	2 092	13 295		70		43 144	6 583	7 718	92 075	10 975		30 662	206 614	278 355
Zimbabwe		32 764		91		37 432	28 169	13 413	355 291	2 967	17 945		488 072	738 198
Total	310 623	108 814	197 499	3 122	312	156 017	150 196	68 669	1 927 542	162 344	111 496	258 746	3 455 380	7 020 956

Source: The Global Knowledge Partnership on Migration and Development (KNOMAD), 2017

increase in informal cross-border migration of young men and women.⁴²

Socio-economic inequalities and the lack of legal avenues for labour migration across the region have also increased irregular migration involving migrants from outside the region, most notably from the Horn of Africa.⁴³ This has resulted in a proliferation of urban-based informal economic activities and atypical employment relationships.⁴⁴

The decline in migrants from Malawi, Lesotho and Mozambique to work on South African mines and the casualisation of the sector has resulted in job losses and in the widespread involvement of migrant workers in labour intensive and unregulated economic sectors. These include domestic work – characterised by a high concentration of migrant women – construction and agriculture.

South Africa's commercial farming is a sector which has relied on cross-border migrants for decades to fill the demand for low skilled labour.⁴⁵ At present, important migration corridors linking semi-skilled migrants to jobs on South African mines and farms are, for example, Mozambique–South Africa and Zimbabwe–South Africa. Both are among the top 20 corridors in Africa. Lesotho–South Africa is another such corridor.⁴⁶

Unlike the mining sector, the agricultural industry is not strictly regulated by bilateral agreements and workers are recruited through corporate visas, or in some cases through special agricultural permits.⁴⁷ Construction is another important sector for migrants from Mozambique, Zimbabwe and Eswatini. The granting of permits for construction workers from Lesotho has also facilitated their employment in the South African construction sector.⁴⁸

The White Paper has attempted to address the issue of irregular migration, proposing to introduce new visa options for low skilled and semi-skilled migrants from the SADC region. These include a SADC special work visa, a SADC traders' visa and a SADC small/medium enterprise (SME) visa for self-employed people and small business owners.⁴⁹ However, this policy seems to be politically unpalatable and unlikely to be implemented in the short term, due to an increased unemployment rate following the outbreak of the Covid-19 pandemic.⁵⁰

Refugees and asylum seekers

During the period 2013 to 2019 the estimated number of refugees and asylum seekers in Southern Africa has more than doubled, from 640 000 to 1.3 million (Table 4). In most countries the refugee population remained stable during this period. However, significant increases occurred in the DRC and the United Republic of Tanzania, both hosting a large number of Burundian refugees who fled their countries' 2015 political and humanitarian crisis. In these countries between 2013 and 2019, the total number of refugees and asylum seekers increased by 368% and 244%, respectively (Table 4).

The percentage of asylum seekers and refugees as a share of the migrant population varies significantly across the region (Table 4) with an average of 12.8%, significantly

lower than the average for sub-Saharan Africa, which is 25%. Zambia and Malawi are two of the main refugee-hosting countries in Southern Africa with a share of 27% and 14.1%, respectively. Refugees and asylum seekers in South Africa account for less than 7% of the total migrant population (Table 5). In countries such as Tanzania and the DRC, refugees and asylum seekers represent the majority of the migrant population.

In South Africa, over the past 20 years, since the entry into force of the 1998 Refugees Act, the number of people in need of international protection has considerably increased. In 2000, the total was above 30 000 and included 15 000 pending asylum applications and 15 000 recognised refugees. In 2014, the total exceeded 500 000.⁵¹

As shown in Table 4, from 2016, the total number of refugees and asylum seekers has decreased. Statistics on asylum seekers and refugees can be relevant in determining the inflow of migrant workers, as both groups have the right to seek employment in South Africa.⁵² However, the White Paper has proposed removing the automatic right for asylum seekers to work, study or conduct business which is seen as a major pull factor.⁵³

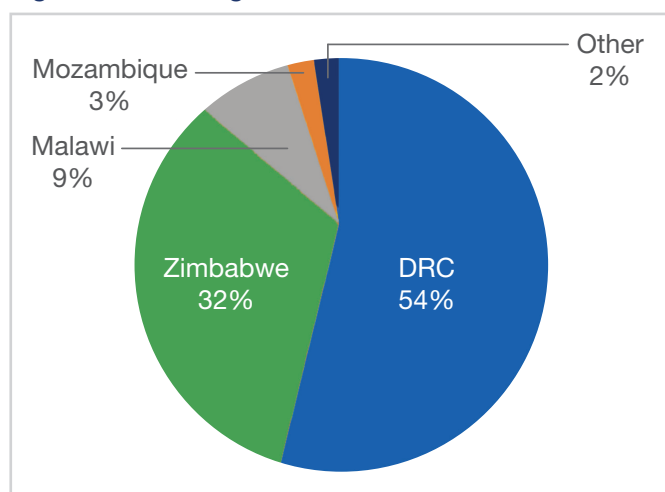
Along this line, the Refugees Amendment Act of 2017, entered into force in January 2020, establishes that

Table 4: Total number of refugees and asylum seekers in Southern Africa, 2013–2019

Country	2013	2014	2015	2016	2017	2018	2019
Angola	43 823	45 686	45 698	45 698	71 248	69 984	71 300
Botswana	2 946	2 847	2 265	2 173	2 174	2 297	2 500
DRC	114 823	120 938	398 600	453 283	537 877	534 790	537 900
Lesotho	30	45	35	48	82	87	100
Malawi	16 935	20 373	23 489	30 415	34 956	36 905	35 000
Mozambique	15 119	17 858	20 447	17 651	23 663	26 023	23 700
Namibia	3 494	2 588	2 849	3 432	4 064	3 895	4 100
South Africa	303 257	576 132	300 000	309 342	280 027	273 473	280 000
Tanzania	102 506	89 375	213 995	290 037	352 700	317 981	352 700
Zambia	25 814	27 764	28 858	32 669	45 940	53 167	45 900
Zimbabwe	13 258	6 720	7 209	8 378	15 952	17 987	15 900
Total	642 005	910 326	1 043 445	1 193 126	1 368 683	1 336 589	1 369 100

Source: United Nations High Commissioner for Refugees (UNHCR), 2019

Figure 2: SADC registered new arrivals in 2017



Source: Department of Home Affairs, Asylum Seeker Management, 2017 Annual Report

asylum seekers will no longer have the automatic right to work and study. These provisions could have serious consequences for the rights and livelihoods of asylum seekers, many of whom depend on informal economies.⁵⁴ The rationale behind this legislative amendment is that a policy which allows asylum seekers to work may encourage asylum applications from economic migrants. This was outlined by the deputy director general, immigration services of the Department of Home Affairs during an interview:

In South Africa we do not encamp asylum seekers but we do not feed nor do we house them. So, the only way for them to survive is through work or through opening a business, and that opens the door for people who do not face any persecution in their own country to come and apply for asylum. They say they are hungry and applying for asylum is the easiest way for them to have some form of legality. Numbers of applications are high and the rate of rejection is also high. Most of the applicants come from the SADC region and we do not believe they have a legitimate asylum claim.⁵⁵

Disaggregated information and statistics on the refugee population in South Africa is published by the Department of Home Affairs and sourced from the National Immigration Information System database. In 2018–2019, a total of 18 354 asylum applications were received but disaggregated data for the period is not publicly available. For 2017 (latest disaggregated data

Table 5: Total number of refugees in Southern Africa, 2019

Countries	Number of refugees	Refugees % migrant population
Angola	71 300	10.6
Botswana	2 500	2.2
DRC	537 900	55.8
Eswatini	1 300	4.1
Lesotho	100	1.3
Malawi	35 000	14.1
Mozambique	23 700	7.1
Namibia	4 100	3.8
South Africa	280 000	6.6
Tanzania	352 700	69.3
Zambia	45 900	27.0
Zimbabwe	15 900	3.9
Total	1 370 400	

Source: United Nations Department of Economic and Social Affairs (UNDESA), 2019

available), 24 174 new asylum seekers were registered, while 27 980 asylum cases were adjudicated. Of these, 2 267 (8%) were approved, 6 819 (24%) rejected as unfounded and 18 894 (68%) as manifestly unfounded, abusive or fraudulent.⁵⁶

From 2016, the number of refugees and asylum seekers in Southern Africa has decreased

Figure 2 shows that the SADC region makes up 37% of the overall new applicants in South Africa, followed by South Asia with 23% and the Horn of Africa with 21%. The top three most common countries of nationality for asylum seekers are the DRC (4 849), Zimbabwe (2 927) and Bangladesh (2 926).⁵⁷

South Africa, a signatory of the 1951 UN Refugee Convention and the 1969 OAU Refugee Convention, enacted in 1998 a progressive legislative framework granting refugees and asylum seekers a whole array of rights, including the right to work, to education and health. However, over the years, the administrative

asylum procedure has been characterised by unfair practices, inefficiencies and widespread corruption.⁵⁸

After repeated unsuccessful attempts to improve the fairness and the efficiency of the asylum system, the government has pursued restrictive policy reforms based on the belief that the asylum seeker management system is abused and overwhelmed by economic migrants.⁵⁹

Between 2008 and 2011, South Africa received the highest number of individual asylum applications globally. Following Zimbabwe's political and economic crisis, over 450 000 asylum applications were submitted during this period. In 2010 only, of the total 170 000 asylum applications received, 145 000 or 84.7% were submitted by asylum seekers from Zimbabwe (Table 6).

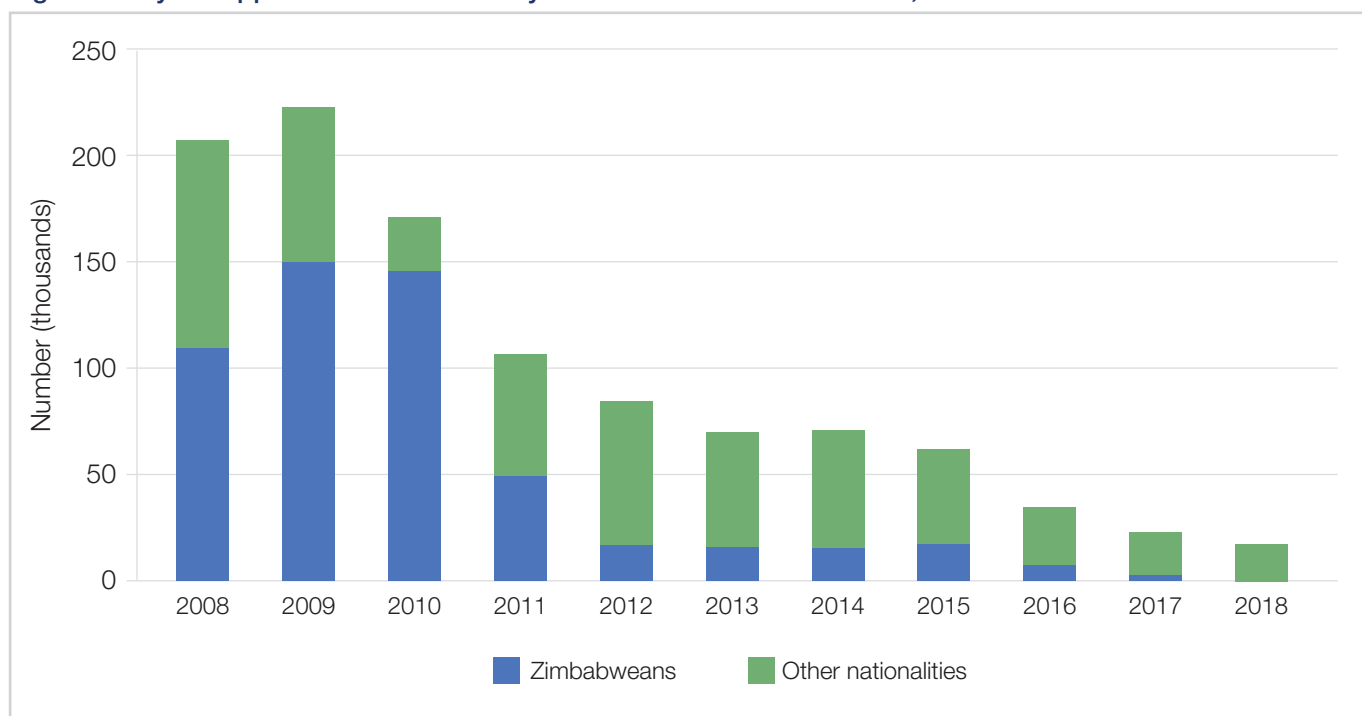
In response to this crisis, one policy adopted to ease the pressure on the asylum system was the implementation of a large regularisation programme for Zimbabwean nationals. In 2009, the Cabinet approved the Dispensation of Zimbabweans Project (DZP) allowing Zimbabwean holders of this special permit to work, conduct business and study in South Africa. At the launch of the DZP, in 2010, the Department of Home Affairs estimated that there were approximately

1.5 million undocumented Zimbabweans in South Africa.⁶⁰ In total, about 275 762 Zimbabweans applied for permits, including 6 243 who applied for amnesty for having fraudulent documents.⁶¹

DZP permits granted to Zimbabwean nationals in 2010 were further extended in 2014 and in 2017 and are valid until the end of 2021. However, the rejection rate for Zimbabwean asylum seeking nationals still remains very high. In 2017, the Department of Home Affairs adjudicated a total of 3 242 asylum applications submitted by Zimbabweans and, of these, only 12 (0.3%) were granted refugee status, while the remaining were all rejected.⁶² Figure 3 shows that from 2011 the number of individual claims submitted by Zimbabweans and their percentage over the total number of asylum claims have decreased, dropping from 50 000 (46.7%) in 2011 to 2 927 (12.1%) in 2017.

The sharp fall in the number of people seeking asylum in South Africa can be attributed in part to the regularisation programmes for Zimbabwean nationals, which attempted to relieve some pressure on the asylum system. However, another contributing factor was the closures of refugee reception offices. Until 2011, when South Africa was the largest recipient of asylum claims in the world, the country

Figure 3: Asylum applications submitted by Zimbabweans in South Africa, 2008–2018



Source: United Nations Refugee Agency (UNHCR), 2018

had six fully functional refugee reception offices (RROs) where new applicants could lodge their applications.

As part of the government's strategy to relocate all refugee reception facilities near the border, between 2011 and 2012, RROs in Johannesburg, Port Elizabeth and Cape Town were closed, forcing asylum seekers to travel long distances to apply or renew their permits.⁶³ The closing of RROs has drawn legal challenges against Home Affairs. Following a Supreme Court of Appeal judgment, the RRO in Port Elizabeth was reopened in 2018, while the Cape Town RRO still remains closed despite a court order that it be reopened by 31 March 2018.

Most migrants are men

In 2019, the total number of female migrants in Southern Africa increased 2.5 times compared to the year 2000.⁶⁴ Table 7 shows that in 2019 women accounted for 46.6% of the international migrant stock in Southern Africa. This is a slight decrease from 47.7% in 2000, indicating a steady trend. It mostly shows that migration in the region remains a male-dominated phenomenon, linked to traditional patterns of cross-border male migrant labour to South Africa. In countries such as the DRC, Malawi, Mozambique and Tanzania, however, migrant women represent more than 50% of all international migrants (Table 7).

Patterns of migration across asylum seekers are also male-dominated. In South Africa, in 2017, a total of 9 015

new asylum applications were submitted by SADC nationals. Of these, 3 435 (38%) were registered by female asylum seekers. Yet, the region is undergoing a process of feminisation of migration⁶⁵ and women increasingly migrate alone, often for shorter duration than men⁶⁶ or to follow their families and husbands. Being able to move alone makes women more financially independent and this empowers them and raises their social status within communities and families.

Unlike men, women in Botswana, Namibia, Mozambique, Lesotho and Zimbabwe move for reasons other than employment including informal trading, shopping and to visit family and friends.⁶⁷ It is estimated that 70% of informal cross-border trade involves migrant women and accounts for 30 to 40% of SADC trade.⁶⁸ A growing number of women migrate from Zimbabwe to South Africa for cross-border trade, while others are engaged in domestic work with little or no labour protection.⁶⁹

Data from the Quarterly Labour Force Survey (QLFS) of approximately 30 000 randomly selected households across the country, released by Stats SA, shows an increase in the percentage of migrant women in South Africa from 40.8% in 2012 to 42.8% in 2017 (Table 7). About one in four migrant women in South Africa are employed as domestic workers.⁷⁰

Table 6: Asylum claims in South Africa, 2008–2018

Year	Zimbabweans	Other nationalities	Total asylum seekers	% applications Zimbabwean nationals
2008	110 000	97 206	207 206	53%
2009	149 500	73 824	223 324	67%
2010	145 000	26 000	171 000	85%
2011	50 000	56 904	106 904	47%
2012	17 200	67 858	85 058	20%
2013	16 400	53 610	70 010	23%
2014	16 420	55 494	71 914	23%
2015	17 800	44 359	62 159	29%
2016	8 000	27 377	35 377	23%
2017	2 927	21 247	24 174	12%
2018	n/a	18 354	18 354	n/a

Source: Department of Home Affairs, Asylum Seeker Management and UNHCR Global Trends.

Table 7: International migrant stock by sex, age and country, 2019

Country of destination	International migrant stock at mid-year (both sexes)	International migrant stock as % of the total population	Gender %		Age %			Median age of migrants	% migrants from the same SDG region
			Male	Female	0–19	20–64	65		
Sub-Saharan Africa	23 573 485	2.2	52.5	47.5	27.3	68.2	4.5	30.9	88.9
Southern Africa	7 877 200	2.9	49.3	46.6	18.4	74.9	6.6	35.4	79.0
Angola	669 500	2.1	51.0	49.0	22.0	73.0	5.0	33.6	96.4
Botswana	110 600	4.8	46.9	43.1	16.8	78.8	4.4	34.4	82.1
Comoros	12 500	1.5	48.4	51.6	18.4	76.2	5.4	35.4	95.7
DRC	963 800	1.1	48.1	51.9	23.6	71.4	5.0	30.5	99.4
Eswatini	32 300	2.8	51.3	48.7	22.4	69.0	8.6	36.4	98.6
Lesotho	6 900	0.3	54.1	45.9	16.6	79.7	3.7	35.3	83.1
Madagascar	34 900	0.1	57.0	43.0	20.5	61.8	17.7	40.7	46.7
Malawi	247 700	1.3	47.6	52.4	18.7	73.2	8.1	34.2	98.0
Mauritius	28 800	2.3	55.4	44.6	9.0	87.6	3.4	42.0	11.2
Mozambique	334 700	1.1	48.3	51.7	28.7	69.2	2.1	30.7	97.3
Namibia	107 600	4.3	53.9	46.1	12.6	77.6	9.8	35.4	74.8
Seychelles	12 900	13.2	70.0	30.0	10.2	85.7	4.1	37.8	18.2
South Africa	4 224 300	7.2	55.6	44.4	17.7	75.6	6.7	33.7	76.1
Tanzania	509 200	0.9	49.4	50.6	22.8	69.6	7.6	34.4	97.6
Zambia	170 200	1.0	50.6	49.4	19.8	73.3	6.9	34.2	93.3
Zimbabwe	411 300	2.8	56.8	43.2	15.3	76.9	7.8	38.3	95.8

Source: United Nations Department of Economic and Social Affairs, 2019

Desperate conditions at home drive migrant women from Lesotho to South Africa to find employment as domestic workers in urban areas but also in the country's agricultural sector.⁷¹ Although the domestic sector comprises largely of adult migrant women, children from SADC countries are also involved in this sector in South Africa.⁷²

In 2019, the median age of international migrants in Southern Africa was 35.4 years, lower than the median age worldwide (39), and varied considerably across the region (Table 7). Countries with a lower percentage of migrants from sub-Saharan Africa, such as Madagascar (46.7%), Mauritius (11.2%) and Seychelles (18.2%), had

a higher median age than countries with a prevalence of sub-Saharan migrants (Table 7).

In 2019, nearly 75% of migrants were between the ages of 20 and 64, defined commonly as working age. The proportion of migrants under the age of 20 was 18.4%, significantly lower than the percentage for sub-Saharan Africa for the same age group.

High price for sending remittances home

Remittances may take different forms including cash, in-kind or social and play an important role in alleviating poverty and mitigating adverse income shocks.⁷³ They can have a substantial impact on livelihoods, improving

nutrition, health and education. However, most remittance flows do not reach the poorest members of communities, as long-distance migration requires resources which extremely poor migrants do not have.⁷⁴

As Table 8 shows, cash flows to sub-Saharan Africa rose from US\$3.6 billion in 2000 to US\$45.7 billion in 2018. The cost of sending remittances in Africa is the highest in the world, averaging 8.9% to send US\$200, higher than the threshold of 3% set in the United Nations Sustainable Development Goal.⁷⁵ In the same period, Southern Africa experienced a major growth in outward remittances from US\$1.1 billion to US\$6.6 billion. This figure is likely to underestimate the magnitude of remittance inflows which occur largely through informal channels.⁷⁶

Table 8: Migrant remittance inflows Southern Africa, 2000–2018

Country	Inflows of migrant remittances (millions of US\$)	
	2000	2018
Sub-Saharan Africa	3 659.1	45 785.9
Southern Africa	1 152.6	6 602.7
Angola	–	1.5
Botswana	26.2	33.2
Comoros	–	142.6
DRC	1.3	1 405.3
Eswatini	56.9	155.6
Lesotho	477.7	437.8
Madagascar	11.3	370.2
Malawi	0.7	44.6
Mauritius	177.0	249.5
Mozambique	36.8	354.1
Namibia	9.5	52.2
Seychelles	3.2	23.9
South Africa	344.0	945.7
Tanzania	8.0	429.6
Zambia	–	100.9
Zimbabwe	–	1 856.0

Source: World Bank, 2020

Expressed as a percentage of GDP, remittances are important in countries such as Zimbabwe and Lesotho where they count for over 10 or 20% of GDP.⁷⁷ The main migration corridors in the region are South Africa–Lesotho (US\$414 million), South Africa–Mozambique (US\$90 million), South Africa–Botswana (US\$38 million) and Botswana–South Africa (US\$33 million).⁷⁸

Migration and employment

The International Labour Organization (ILO) provides recent occupational data only for a few countries in Southern Africa, namely Malawi, Namibia and Zambia (Table 9). Available data from the ILO shows that in 2017, the share of foreign-born workers in Namibia and South Africa was higher than in Zambia and Malawi, 6.4% and 5.3% compared to 1% and 1.8%, respectively. Zambia had the smallest population of migrant workers (33 000), many of whom had been hired by Chinese construction companies.⁷⁹ In Malawi, migrant women are the majority, while in the other countries, migration is largely dominated by men. In all four countries foreign-born workers aged 35–64 represent the largest group (Table 9).

In South Africa, the QLFS provides information on age, gender, education level attained, province, industry and the sector of employment of labour migrants. The migration module measures international migration within the preceding five years.

The QLFS found that the foreign-born population in South Africa increased from 1.3 million in 2012 to nearly two million in 2017 (Table 10). In the same period, the percentage of people of working age born outside South Africa increased from approximately 4% to 5.4%. The majority of international migrants in South Africa are likely to be men (57.2%); however, the share of women increased from 40.8% in 2012 to 42.8% in 2017 (Table 10).

The majority (87.5%) were black Africans, confirming a high intensity of intra-African labour mobility (Figure 4). In both 2012 and 2017, the proportion of graduates was higher for labour migrants (7.4%) than for South Africans (4.6%), while in the other three categories (i.e. ‘other tertiary’, ‘matric’ and ‘below matric’) the proportions were very similar (see Table 12). Results also indicate that for the periods 2007–2012 and 2012–2017, the proportion

Table 9: Distribution of working age population by place of birth, gender and age, 2017

Country	Distribution of population aged 15–64 by place of birth (thousand)		Foreign born working age population %	Gender				Age		
	Foreign born	Total		Foreign born		Total		Foreign born		
				Male	Female	Male	Female	15–24	25–34	35–64
Malawi	88.7	4 941.0	1.8	43.6	45.1	2 521.7	2 419	8.2	14.7	59.6
Namibia	57.5	902.0	6.4	34.6	22.9	456.9	445.1	13.9	15.1	25.8
South Africa	1 984.0	37 373.0	5.3	1 134.8	849.1	18 462.2	18 910.7	373	650.7	914.6
Zambia	33.0	3 271.0	1.0	25.7	7.2	1 952.2	1 318.3	3.9	9.8	18.5

Source: The International Labour Organization (ILO), 2017

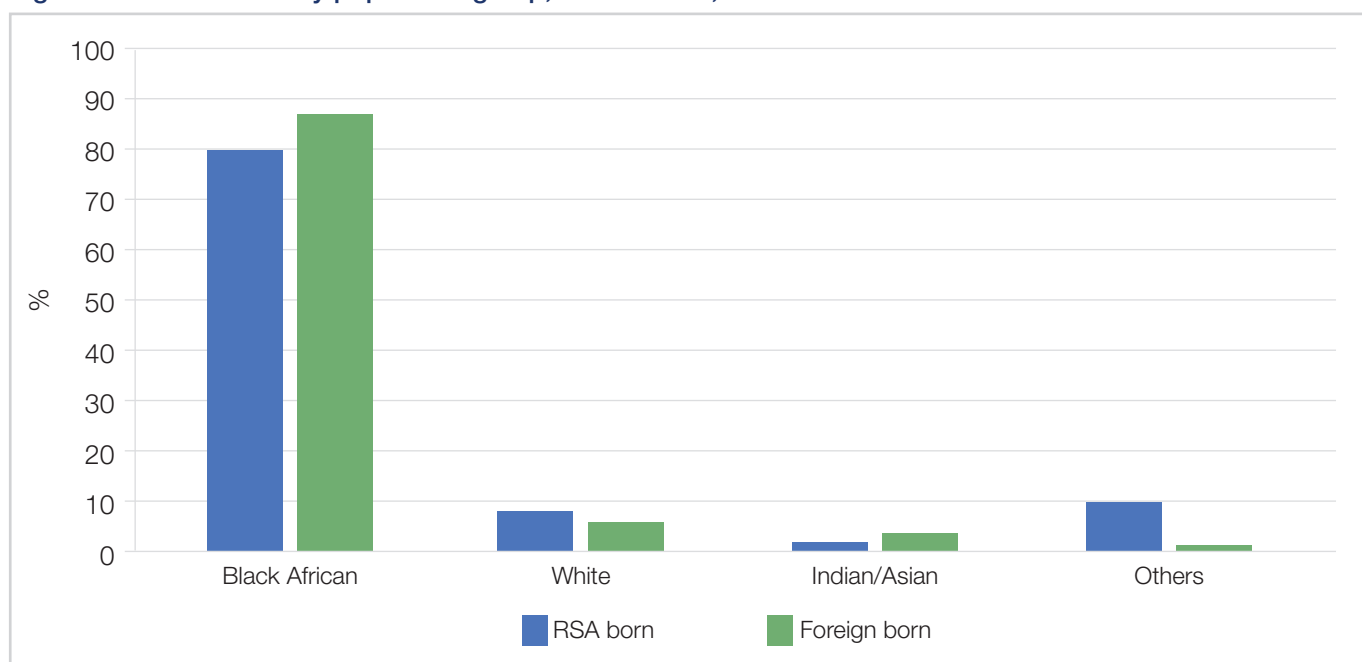
of immigrants with tertiary qualifications decreased (from 13.2% to 10.3%) and the proportion of those with less than matric (secondary not completed) increased (from 44% to 53.3%).

A decreased education level of the foreign-born population may indicate that South Africa is becoming a less attractive destination for professionals and highly skilled workers, while presenting more opportunities for those involved in manual labour or labour intensive industries.⁸⁰ In 2011, highly skilled foreign-born workers numbered 285 000, compared to 895 000 medium- and low skilled workers.⁸¹

Research highlights that the foreign-born labour force in South Africa is segmented. Low skilled migrants are more likely to have no more than a primary level of education, while high-skilled migrants have completed education on a tertiary level.⁸² This also indicates ‘an influx of, on the one hand, low skilled young workers and, on the other hand, high-skilled adult workers.’⁸³

In general, highly skilled foreign-born workers have similar incomes to South African-born workers, while the earnings of lower-skilled migrants are lower than their South African-born counterparts.⁸⁴ International

Figure 4: Place of birth by population group, South Africa, 2017

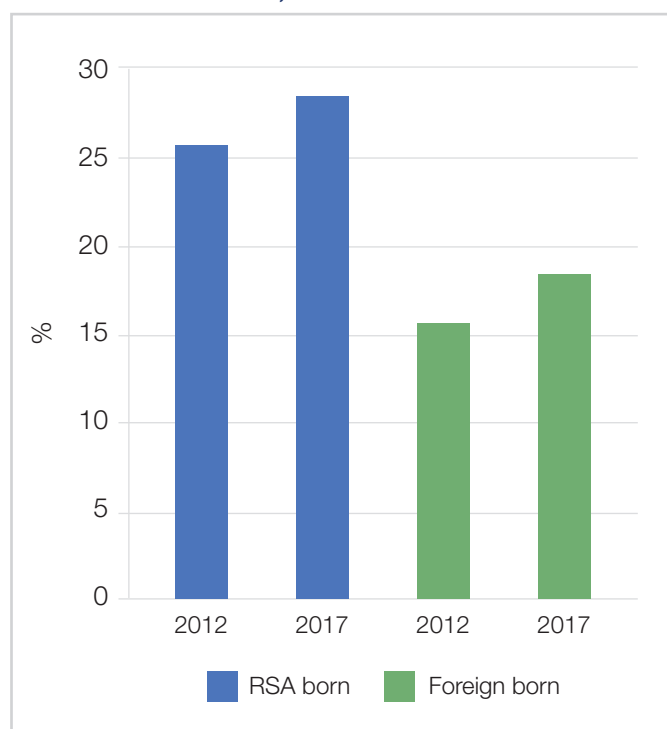


Source: Statistics South Africa, QLFS 2017

migrants are also more likely to be employed as casual labourers under precarious and exploitative conditions.⁸⁵

Data from the QLFS shows that, between 2012 and 2017, the unemployment rate for both foreign-born and South African workers has increased (Figure 5), most likely due to the economic slowdown. However, the employment rate of South Africans was significantly lower

Figure 5: Unemployment rate by place of birth, South Africa, 2012–2017



Source: Statistics South Africa, QLFS 2017

than that of foreign-born migrants in both periods. This can be explained by the high percentage of foreign-born migrants working in the informal sector (27% in 2017), but also by the fact that South African employers prefer to hire migrants who are willing to work harder, for longer hours, or for less pay.⁸⁶

A study conducted by the Organisation for Economic Co-operation and Development (OECD) and the ILO revealed that immigrant workers in South Africa do not have any significant effects on the employment of native-born workers at national level.⁸⁷ However, at regional level, ‘a higher share of immigrant workers has a negative effect on employment rates of native-born workers, suggesting that opportunities for workers of a given skill level differ considerably between regions.’⁸⁸ This is, for instance, the case in border regions where a high concentration of immigrant workers can negatively affect native-born employment rates of competing workers.⁸⁹

Table 10: Place of birth by level of education, South Africa, 2012–2017

	2012	2017	2012	2017	2012	2017
	RSA born		Foreign born		Total	
Graduates	3.2	4.6	7.2	7.4	3.3	4.8
Other tertiary	7.8	7.7	6.9	6.5	7.7	7.6
Matric	25.4	28.1	24.4	22.3	25.4	27.8
Below matric	63.1	58.9	57.7	59.3	62.9	58.9

Source: Statistics South Africa, QLFS 2017

Table 11: Distribution of working age population in South Africa by birth and gender

	Distribution of population aged 15–64 by place of birth (thousand)			Working age population %		Gender %			
	2012	2017	Change	2012	2017	Male	Female	Male	Female
						2012		2017	
Foreign-born	1 333	1 984	651	3.9	5.4	59.2	40.8	57.2	42.8
RSA born	32 920	35 387	2 467	96.1	94.7	51.4	48.6	49.0	51.0
Unspecified		2	2	0.0	0.0	0.0	0.0	0.0	0.0
Total	34 253	37 373	3 121	100.0	100.0	49.0	51.0	49.4	50.6

Source: Statistics South Africa, QLFS 2017

Many migrant workers in South Africa are self-employed in the informal sector due to lower entry costs compared to the formal sector, but also due to multiple barriers in accessing the formal labour market.⁹⁰ In particular, asylum seekers and refugees experience difficulties in obtaining and renewing their legal documentation, accessing financial services and opening bank accounts.⁹¹

Many migrants employed in informal sectors, such as hospitality and domestic work, are undocumented, not affiliated to trade unions and their employment relationships are atypical or not covered by formal arrangements.⁹² Available data shows that 47% of migrants tend to be employed in precarious and unregulated environments. Of these, 27% are employed in the informal sector, while 7.5% are employed in agriculture and 12.4% in private households (Table 12).

Interregional patterns of informal trade are dominated by informal traders from Somalia and Ethiopia who have relocated to Southern Africa to take advantage of opportunities in the services sector.⁹³ Many of these Eastern African migrants are smuggled to Southern Africa via southern routes (Map 1 on page 6).⁹⁴ Migrant traders in the informal sector are often discriminated against with unfair policies and unconstitutional municipal bylaws.⁹⁵

Table 12: Employment shares by place of birth and sector, South Africa, 2012–2017

	2012	2017	2012	2017
	RSA born		Foreign born	
Formal	72.1	71.7	50.6	53.0
Informal	15.0	15.7	31.8	27.1
Agriculture	4.7	4.8	6.2	7.5
Private households	8.2	7.7	11.4	12.4

Source: Statistics South Africa, QLFS 2017

In South Africa, political hostility towards the economic activities of foreign migrants (including asylum seekers and refugees) has been on the increase for some time. Both local and national political actors have sought diverse ways to constrain foreign nationals' ability to make a living, particularly in the small business sector.

In March 2020, during the Covid-19 pandemic, the police shut down several immigrant-owned spaza shops after the minister of small business development said that 'strictly only South African owned and operated spaza shops were allowed to trade'.⁹⁶ This hostile and discriminatory approach is demonstrated, for example, by contradictory and unclear procedures to register for a street trading licence which actively exclude non-citizens.⁹⁷

Table 13: Foreign born population by industry and occupation, South Africa, 2012–2017

Industry	2012	2017	Occupation	2012	2017
Trade	30.2	25.2	Elementary	21.1	26.6
Services	12.4	14.0	Craft	21.1	16.5
Construction	11.3	13.0	Sales	17.3	15.2
Private households	11.4	12.4	Manager	11.8	10.7
Finance	10.5	11.2	Domestic work	6.9	8.7
Manufacturing	10.3	7.8	Operator	5.5	5.7
Agriculture	6.2	7.5	Clerk	3.9	5.7
Transport	4.1	5.6	Professional	5.2	5.2
Mining	3.5	2.9	Technician	6.7	5.1
Utilities	0.1	0.5	Skilled agriculture	0.6	0.5

Source: Statistics South Africa, QLFS 2017

Furthermore, in October 2020, the Gauteng provincial government introduced the Gauteng Township Economic Development Bill to restrict economic activities of migrants. If passed, the bill could ban foreign nationals without permanent residency from operating informal businesses in townships.⁹⁷

Table 13 shows that the majority of foreign-born workers are employed in three industry sectors: trade (30%), services (14%) and construction (13%). Data also suggest a drop in the percentage of foreign workers employed in the mining sector, from 3.5% in 2012 to 2.9 in 2017, and an increase in agriculture occupations from 6.2% to 7.5%.

Among the different occupations, the largest share of foreign-born workers is employed in elementary occupations (26.6%). The percentage of domestic workers increased from 6.9% in 2012 to 8.7 in 2017, while the percentage of foreign-born employed as craft workers, managers and technicians decreased in the same period (Table 13, page 17).

Migration governance in Africa

At a global level and in Africa, with the adoption of the 2030 Agenda and the Sustainable Development Goals (SDGs) in 2015, migration was mainstreamed into global development policy. In particular, a reference to migration is made explicit in target 10.7 of the SDGs which reaffirms the need to 'facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.'

As reported by the Common African Position (CAP) on the Global Compact for Safe, Orderly and Regular Migration (GCM),⁹⁹ the GCM, adopted in 2018, seeks to give meaning to target 10.7 of the SDG and to provide a non-legally binding cooperative framework able to address migration in all its dimensions. In this regard, the CAP represents the expression of the continent's migration aspirations built on the premise that 'human mobility and free movement of all persons within the continent constitute one of the pillars of an integrated Africa.'¹⁰⁰

In line with the 2030 Agenda on Sustainable Development, the AU adopted in 2015 Agenda 2063 which constitutes the overarching framework for Africa's

political socio-economic integration and economic development. Regional integration, intra-Africa trade and the development of policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services amongst member states are key priorities of this continental Agenda. The development of an integrated approach to migration management resulted in the AU Migration Policy Framework (MPFA), a non-binding reference document adopted in 2006, which recognises the importance of seeing migration as a development issue.

Diverse ways have been sought to constrain foreign nationals' ability to make a living

The MPFA was updated in 2016 into the Migration Policy Framework for Africa and Plan of Action (2018 – 2030), a strategic document aiming at improving migration governance and facilitating safe, orderly and dignified migration. In this regard, the lack of migration governance, and especially the poor institutional capacity within member states, was cited by one of the respondents as the most pressing challenges to the establishment of a harmonised and integrated regional migration regime.¹⁰¹

Another challenge in the context of migration governance is represented by the increasing intra-labour and skills mobility which requires regional cooperation and the harmonisation of labour migration policies. In accordance with the provisions of Article 71(e) of the Abuja Treaty aiming at establishing and strengthening labour exchanges to facilitate the employment of available skilled manpower across member states, the 2015 Joint Labour Migration Programme (JLMP) seeks to facilitate the movement of workers and to harness labour migration for development.

Since 2018, several important steps have been made towards the realisation of a borderless and integrated Africa. First, the Protocol on Free Movement of Persons, Right of Residence and Right of Establishment was adopted to facilitate free movement of persons on the continent through a progressive harmonisation of the different national and regional policies.

Second, in 2019, the African Continental Free Trade Area (AfCFTA) moved into its operational phase and was due to be launched in July 2020.¹⁰² However, due to the negative effects of COVID-19 its launch was postponed to the beginning of 2021. The AfCFTA is expected to be

one of the largest global single markets with a collective GDP of US\$2.5 trillion and consumer and business spending of more than US\$4 trillion.

Furthermore, since the adoption of the AU Free Movement of Persons Protocol, remarkable progress

Figure 6: SDG targets related to migration



Source: UNDESA, International Migration Report, 2019

towards visa liberalisation has been made. According to the 2019 Africa Visa Openness Report, African countries have become increasingly open to visitors from the continent over the past four years. Currently, Africans need visas to travel to 49% of other African countries (down from 55% in 2016).¹⁰³

Migration governance regionally

At the regional level, RECs operate in partnership with the AU to adopt and implement interventions reflecting continental aspirations on economic integration and the free movement of labour. In Southern Africa, the creation of a regional economy and freeing the movement of people across the region have been at the heart of SADC from the moment of its inception. However, despite several initiatives taken in this direction over more than three decades, little progress has been made.

In 1995, a draft Protocol on the Free Movement of Persons aimed at the achievement of free movement and the establishment of citizens of the SADC across the sub-region in phases was introduced. The protocol made provision for migrants to reside in any member state and to have the right to seek employment in the country of residence. South Africa, Botswana and Namibia opposed some elements in the protocol and, after several revisions, member states agreed on a revised document.

The draft protocol was first adopted in 2005 under SADC's Organ on Peace, Defence and Security. It is meant to provide SADC citizens the right to free entry (with some limitations) without a visa into another member state, the right to seek permanent and temporary residence and establishment, and access to employment in the host country. At present only seven SADC member states – Botswana, Eswatini, Namibia, Lesotho, Mozambique, South Africa and Zambia – have ratified the protocol, which requires two-third of ratifications (10) by member states to enter into force.

Within SADC, migration continues to be a thorny issue as member states rely heavily on state autonomy to manage migration. A protocol originally aiming to free the movement of persons across the region was diluted to 'facilitating' movement in the final form. Along with the missing ratifications 15 years after its adoption, this brings to the fore the underlying tensions

between national legislative frameworks and regional integration activities.¹⁰⁴

SADC and the free movement of labour

The free movement of labour is a key component of regional integration and economic development. As one of the respondents from the SADC Secretariat put it:

Labour migration has always played a key role in consolidating regional integration. While labour migration was historically most pronounced in the movements to South Africa's mining and agricultural sectors, today the attractions are more diverse including in highly skilled jobs and executive categories across different sectors, such as the hospitality industry, education, science and technology, among others. At the same time, the pathways for labour migration are no longer generally limited to South Africa as other countries such as Botswana and Namibia have also become destinations of note. These trends are very important and hold great potential for the needed skills sharing and industrialisation in the region.¹⁰⁵

Since 2013, the Employment and Labour Sector of SADC adopted, in successive stages, a Labour Migration Policy Framework (LMPF), a SADC Labour Migration Action Plan (2013–2015)¹⁰⁶ and a Protocol on Employment and Labour (2014) to address issues regarding the movement of labour migrants across the region. The first two are non-binding instruments which require SADC member states to develop national labour migration policies and address operational issues such as, among others, bilateral agreements based on sectorial analysis, circular programmes and remittance transfers.

So far, only seven states have ratified the SADC protocol on free movement of persons

Currently, half of the member states in the region are at various stages in the formulation and implementation of labour migration policies. Namibia recently launched its new labour migration policy; Mauritius and Zimbabwe already have policy frameworks to promote and govern labour migration.¹⁰⁷ Botswana, Lesotho, Malawi, South

Africa and Zambia are also in the process of developing national labour migration policies with technical assistance provided by the ILO.¹⁰⁸

The 2014 Protocol on Employment and Labour is a binding agreement aiming at 'providing member states with strategic direction and guidelines for the harmonisation of employment and labour, as well as social security, policies and legislation.'¹⁰⁹ Article 19 (a–k) of the Protocol requires member states to develop instruments on labour migration to enhance policy coherence, improve migration management and protect the rights of migrant workers. The Protocol has been ratified only by one country (Zimbabwe in 2018) and, in 2020, SADC ministers of employment and labour agreed to review it. One respondent explained:

Member states have underscored their commitment to ratify and implement the Protocol on Employment and Labour. However, they have identified the need to address technical and drafting inconsistencies in the Protocol, to enable them to fast track ratification. The essential commitment to 'decent work for all' has not been fully expressed in the Protocol, since most of the relevant international treaties in this regard have not been fully incorporated in the SADC instrument. This gap needs to be closed so that the Protocol's actual aspirations are clear and unambiguous to member states as they ratify.¹¹⁰

There are several underlying causes for the non-ratification of the Protocol on Employment and Labour. The experts interviewed have elicited a number of obstacles, including a heavy financial toll for member states. According to one respondent from the ILO:

Member states and ministers of labour have agreed in principle but then the Protocol has to be approved by Cabinet and by Parliament where it meets the resistance of the ministers of finance who are concerned because the rights enshrined in this instrument have huge cost implications. It was, therefore, discussed to lose some of the obligatory elements of the Protocol that were leading to the high costs of compliance.¹¹¹

Another respondent believes financial implications are not the real issue that prevent and delay the ratification

of binding regional legal instruments on employment and labour, but it is rather the unwillingness of member states to commit to protect workers' rights.¹¹² An example which highlights the inability of member states to provide an environment in which the rights of all workers, including migrants, are protected is the resistance to adhere to the 2008 ILO Decent Work Agenda.

The Decent Work Agenda, adopted in 2008, is built on four pillars: employment creation, social protection, rights at work and social dialogue.¹¹³ It is linked to goal 8 of the 2030 Agenda for sustainable development which aims to 'promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.'

The free movement of labour is key to regional integration and economic development

This view was seconded by another respondent who concluded that, while the process of harmonising labour migration policies is at a more advanced stage, issues related to employment and labour are less agreed upon by SADC member states.¹¹⁴ These issues include the harmonisation of the entire labour sector and the employment mechanisms, as well as the alignment with international standards and ILO conventions which many countries in the region have not ratified yet.¹¹⁵

Based on the responses from the respondents, the governance of labour migration in the region is informed by a protectionist approach and a lack of political commitment around the enforcement of workers' rights. Member states have made progress in enhancing policy coherence for labour migration; however, this is based on aspirational and non-binding, rather than obligatory, agreements.

Evidence points to the fact that the lack of political consensus around the definition of standards for the protection of migrant workers and the disappointing regional rate of ratification of international conventions are motivated by the perceived and/or real benefits and costs that could be economic, social, political, and/or cultural.¹¹⁶ Perhaps, as suggested elsewhere,¹¹⁷ the creation of a list of core rights for migrant workers to

complement existing international legal instruments could make member states' goals more attainable and reduce anxiety in receiving states over the potential adverse economic impact.

Portability of social security is a challenge

The SADC Employment and Labour Sector (ELS) has developed social security policy documents aimed at enhancing coordination, convergence and the harmonisation of social security systems in the region. These include the 2003 SADC Charter of Fundamental Social Rights and the 2008 SADC Code on Social Security. In particular, the limited national and cross-border social portability has been identified as one of the greatest challenges to the access of social security benefits. In this context, 'portability' is defined as the migrant worker's ability 'to preserve, maintain and transfer acquired social security rights independent of nationality and country of residence.'¹¹⁸

It is estimated that in South Africa unpaid social security funds have reached a staggering amount of R10 billion. Of this amount, R3 billion is held in the Mineworkers Provident Fund.¹¹⁹ In 2018, the SADC Secretariat convened a two-day workshop on the project titled 'Strengthening Capacity and Policy Instruments on Portability of Social Security Benefits in the SADC Region'. During this workshop participants identified

numerous barriers and portability constraints in the agriculture and mining sectors as reported in Table 14.¹²⁰

Other challenges include the lack of knowledge amongst migrant workers about social security benefits; cumbersome administrative procedures and regulatory requirements; and the absence of mechanisms to transfer social security funds across countries in the region.¹²¹

Limited national and cross-border portability makes accessing social security benefits hard

One of the respondents from the Swaziland Migrant Mine Workers Association (Swammiwa) explained that many former miners employed in South Africa are not aware in which pension or provident funds were allocated their retirement benefits. He further reported that some of the major challenges in cross-border portability arrangements include incomplete information provided by companies to their workers and the high costs of remitting funds outside South Africa, especially when small amounts are left in the funds.¹²²

To promote the right to access social security benefits, SADC ministers have approved the Guidelines on

Table 14: Barriers and portability constraints in the agriculture and mining sectors

Barriers and portability constraints in the agriculture sector	Barriers and portability constraints in the mining sector
Outright exclusion of migrant agricultural workers from participating in social security schemes	Fragmented social security schemes that are limited in coverage
Social security schemes in some countries require continuous contributions, while agricultural work is seasonal and casual in nature, resulting in a truncated contribution period	Lack of uniform legal provisions and financing methods for social security and social protection across countries
Documentation challenges, including limited access to official documents	Different levels of economic development including risks in currency fluctuations
Absence of regional labour (registration) bureau for agricultural workers resulting in challenges tracking/tracing of beneficiaries	Inadequate data/statistics on migration to show the actual extent of problem and intervention gap
Limited access to official documents e.g. passport	Lack of proper/accessible administrative structures for portability

Source: SADC Secretariat

Portability of Social Security Benefits. Currently, five countries (Eswatini, Lesotho, Malawi, South Africa and Zimbabwe) have volunteered to cooperate bilaterally by piloting implementation of the Guidelines.¹²³

Liberalising trade in Southern Africa

SADC has taken several steps to promote trade liberalisation in the region and in 2008, member states agreed to establish a SADC Free Trade Area and remove tariffs on trade against each other. Earlier, in 2002, the governments of Botswana, Lesotho, Namibia, South Africa and Eswatini signed the Southern African Customs Union (SACU) Agreement creating a single customs territory. Tariffs and other barriers are eliminated for products originating in these countries and common external tariffs apply to non-members.¹²⁴

The SACU Agreement does not make provision for the free movement of labour.¹²⁵ In this regard, researchers have formulated a proposal to establish a policy framework for SACU members to regulate free movement of labour, while maintaining the objective to create a regional labour migration system for SADC.¹²⁶ According to this proposal:

The SACU should be seen as a policy laboratory, where new innovations could be introduced before considering a potential/incremental expansion to the SADC region. SACU members should, therefore, establish a two-tier policy whereby they work towards free movement of labour while maintaining a managed migration policy outside of SACU, within SADC.¹²⁷

South African investments have been crucial and decisive in enhancing regional development and contributing to SADC's regional integration agenda.¹²⁸ The country exports agricultural products, livestock and other goods to supply chain stores in Southern African countries, as well as machinery and accessories for the mining industry.¹²⁹ One of the most successful trade routes in the region connects South Africa, Eswatini and Mozambique¹³⁰ where raw materials and finished products¹³¹ are transported across borders through three main corridors.

The Nacala Development Corridor was established to link Mozambique to the inland countries of Malawi and Zambia. The Beira Development Corridor has two

lines. The Machipanda line, linking the Port of Beira to Zimbabwe, consists of about 3 000 kilometres of road, railway line and an oil pipeline; the other is the Sena line, linking Beira to the coal mines in Mozambique and Malawi. The third corridor is the Maputo Development Corridor linking South Africa's Gauteng province to Maputo port in Mozambique.

In 2015, the Tripartite Free Trade Area (TFTA) agreement was signed with the aim of creating a free trade area between three RECs: the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC) and the East African Community (EAC). The TFTA, a first step towards the creation of a continental free trade area, covers a total of 26 African countries, accounting for approximately 57% of the population of AU member countries.¹³² So far the TFTA, which provides duty-free and quota-free market access, has been ratified by eight member states and requires six more ratifications to enter into force.¹³³

The SACU Agreement doesn't make provision for the free movement of labour

There are a number of challenges to the implementation of economic integration in the region including socio-economic imbalances between member states, institutional inefficiencies and overlapping and concurrent memberships.¹³⁴ Research highlights that:

... overlapping and concurrent membership by SADC member states has tended to show that they are not pulling together towards the goal of regional integration, as each member state has concentrated on identifying its own economic opportunities without regard for other members' economic interest.¹³⁵

Informal cross-border traders play a role

Informal cross-border trade (ICBT) plays a vital role in the economy of the Southern region and 'provides an income earning opportunity for women who constitute a significant proportion of informal sector cross border traders.'¹³⁶ ICBT commonly refers to 'trade in goods/merchandise and services which may be legally

imported or exported on one side of the border and illegally on the other side and vice-versa, on account of neither having been recorded in the official trade statistics nor subjected to statutory border formalities such as customs clearance.¹³⁷

Research shows that ICBT comprises a 'significant proportion of traffic through border posts throughout the region and half of border crossers at Beit Bridge between South Africa and Zimbabwe are cross-border traders.'¹³⁸ Estimates also suggest that ICBT amounts to 30–40% of total intra-regional trade in the SADC region and 40% in the COMESA region.¹³⁹

ICBT activities contribute to regional integration from the bottom up by helping to distribute manufactured goods and creating a trade link between formal manufacturing enterprises.¹⁴⁰ There is also an 'overlap between informality and formality given the linkages between the two and the fact that there are formal firms which engage in informal trade and there are informal traders who are suppliers of the formal firms.'¹⁴¹ Thus, ICBT can link the formal and the informal sectors via an informal channel of distribution.

In some cases, for example, formal enterprises use ICBT to transport goods across borders and avoid import taxes.¹⁴² The types of products which are traded across borders are in general classified as:

- Non-processed goods
- Manufactured goods
- Re-export goods including handicrafts, food and non-foodstuff, as well as livestock¹⁴³

The main trading corridors in the region connect South Africa, Zimbabwe and Botswana to Zambia and the DRC, Zambia and Tanzania (to the port of Dar es Salaam), Zambia, Zimbabwe and Malawi, and Zambia and Mozambique (to the port of Beira).¹⁴⁴

Regional policy instruments to promote trade and economic integration do not take into full account the importance to harness ICBT activities and address the challenges faced by the sector. These include limited access to finance, a lack of market information, corruption and insecurity, limited knowledge, education and business management skills¹⁴⁵ and a lack of representation of small traders within the SADC sub-committee on customs

and cooperation.¹⁴⁶ At regional level, the establishment of simplified trade regimes (STRs) to ease cross-border procedures represents an attempt to formalise informal trade, maximise the gains for traders and governments and mitigate some of the problems.

COMESA member states have adopted an STR to assist small-scale cross-border traders, simplify paper work, define lists of tradeable goods and promote exchanges. The facilitation of ICBT activities within COMESA is a policy response to the growing youth bulge in the region and to the lack of opportunities to secure formal employment. Thus, ICBT activities appear to play a significant role in reducing poverty and improving food security.¹⁴⁷

Informal cross-border trade is vital for the economy of Southern Africa

SADC has not yet implemented a simplified trade regime as a broad consensus is lacking amongst member states on the definition of a threshold for the value of goods and the frequency of trade to be adopted at the multilateral level.¹⁴⁸ One respondent noted that SADC member states do not have a tolerant approach to ICBT. Resistance comes from the formal sector but also from the political sector and development partners which see informal cross-border traders as tax evaders. For instance, South Africa seems to be at odds with policy initiatives to facilitate cross-border activities for informal traders who are associated with illicit activities.¹⁴⁹

Furthermore, at regional level, organisations representing informal workers are excluded from the tripartite structure of the employment and labour sector which consists of regional representatives of workers (SATUCC), employers (SADC Private Sector Forum) and governments (SADC Secretariat and Council of Ministers).¹⁵⁰

A draft SADC Simplified Trade Regime Framework was developed and presented to a Committee of Ministers of Trade meeting held in Namibia in August 2019. The SADC Simplified Trade Regime Framework includes a regional list of qualifying products, customs procedures, the threshold of qualifying products and the frequency of trade and enables member states to implement the STR bilaterally and on a voluntary basis.¹⁵¹

Problems with free movement in the region

Historically, human mobility has been a feature of the SADC region and the economy of South Africa has depended on the supply of migrant labour. Since the 1960s South Africa has entered bilateral agreements with Botswana, Lesotho, Swaziland (the BLS countries) and Mozambique to guide labour migration into South African mines. More recently, and due to the lack of implementation of a regional labour migration policy, SADC member states have resorted to bilateral agreements and memoranda of understanding with partner countries to regulate the migration of people from one country to another.¹⁵²

As researchers Fioramonti and Nshimbi note: 'By and large, the bilateral system dominating in SADC is nothing more than a set of agreements with South Africa at the centre, through which the other countries respond with their own bilateral strategies (as is the case of Namibia and Botswana) or simply sit at the receiving end.'¹⁵³ This form of 'exclusive bilateralism'¹⁵⁴ allowing for individual countries to retain control over the entry and stay of foreign nationals does not encourage the establishment of a regional migration framework.

Earlier studies have highlighted some of the major challenges to the full implementation of a free movement regime within the SADC region.¹⁵⁵ These include a high level of economic disparity between member states, a lack of political commitment and a negative attitude towards immigrants. Other significant obstacles are exclusionary policies to limit permanent settlement, weak governance and administrative capacity and limited freedom of movement within and from host countries, especially for asylum seekers and refugees who are expected to remain confined in camps.¹⁵⁶

In particular, the lack of political will on the part of SADC member states to ratify binding protocols is borne out of the fact that migrant destination countries are uncertain about the potential impact of migration once they open their borders. This is also because of the scarcity of statistical information regarding migration in Southern Africa.¹⁵⁷ As Maunganidze and Formica, authors of a research paper released by the Institute for Security Studies, note: 'the issue of political unwillingness also stems from the uncertainty of receiving countries of how they will be affected by an open border policy.'

As a result, SADC member states are motivated by national interests in pursuing regional migration matters. For example, South Africa views migration primarily as a matter of national security, rather than an economic, social and/or humanitarian issue. Moreover, high unemployment rates in the major destination countries and lack of sufficient institutional structures to control irregular migration make it difficult for member states to readily open their borders.¹⁵⁸ Another challenge is that citizens in the region perceive migration as a threat and thus expect their governments to be tough on migrants, asylum seekers and refugees.¹⁵⁹

One of the most formidable and intractable obstacles to regional harmonisation is a negative public attitude towards immigrants, including those from other SADC countries, in the main migrant-receiving states. In recent times, there have been several xenophobic attacks in South Africa towards African migrants, while in Angola authorities have targeted and expelled Congolese migrants. In Botswana, Zimbabwean migrants have faced discursive and physical exclusion, while in Zimbabwe the denationalisation of people of Malawian descent has left them destitute.¹⁶⁰

SADC states are motivated by national interests when pursuing regional migration matters

Another obstacle to regional integration is the weakness of SADC as a regional institution. It has limited resources and little political power over national governments, and thus little ability to shape the migration governance agenda.¹⁶¹ As a result, SADC member states have adopted exclusive bilateralism as the preferred strategy for regulating migration in the region.

The existence of bilateral agreements is both an obstacle and an opportunity towards the establishment of a regional labour migration framework and the implementation of a free movement regime. On one side, the fact that states can successfully regulate conditions of entry, stay and repatriation in their territories through bilateral regulatory frameworks can be a disincentive for the adoption of multilateral agreements.¹⁶²

On the other side, bilateral interactions can be preparatory to multilateral cooperation if they are conducive to the establishment of a regional framework for migration based on agreed regional policies.¹⁶³ As one respondent from the ILO put it:

At the ILO we have agreed that bilateral agreements are outdated, so updating bilateral agreements is a stepping stone towards regional agreements. Let's have clear bilateral agreements in place between Botswana and Zimbabwe, Zimbabwe and Namibia, Zimbabwe and Zambia. When we have a plethora of bilateral agreements then we are ready to have a regional agreement.¹⁶⁴

The weak institutional capacity and the challenges in accessing regional governance institutions have also resulted in the inability of these institutions to effectively engage with civil society organisations (CSOs). NGO and CSO networks can play an important role 'by facilitating a bottom-up process to regional integration.'¹⁶⁵ Article 23 of the SADC Treaty seeks to fully involve civil society and NGOs in the process of regional integration. Formal access to SADC institutions is regulated by SADC national committees and memoranda of understanding with the SADC Secretariat. However, these mechanisms have proved to be weak and ineffective.

Conclusion

The migration scenario in Southern Africa is characterised by high-level mobility which takes different trajectories, from short-term cross border to circular movements and permanent stays. Migration in the region is largely driven by employment opportunities and the demand for low skilled, semi-skilled and highly skilled labour. Comprehensive regional data on skills is lacking, and evidence suggests that most skilled migrants come from East African countries to fill demand in South Africa's skill intensive sectors.

On the other hand, low skilled migration, mostly informal and unregulated, follows the patterns of traditional contract labour to South Africa, where migrants are employed in labour intensive sectors such as agriculture, construction and domestic work. South Africa is the main hub for migrants in the region and among the top 20 destinations for migrants worldwide. Nonetheless,

all Southern African countries, in particular Angola, Botswana, Mauritius, Mozambique and Seychelles, host migrants from within and outside the region, at all skill levels.

Southern African countries have made some remarkable steps in pursuing regional integration and liberalising labour migration by adopting a Labour Migration Policy Framework and a SADC Labour Migration Action Plan. However, the regional framework is based on aspirational and non-binding, rather than obligatory, agreements.

Bilateralism is the preferred option for SADC member states and any form of multilateral policy framework to govern labour migration in the region is lacking. Furthermore, the disappointing regional rate of ratification of international conventions affecting migrants raises the question of whether efforts to convince member states to ratify these conventions should continue, or whether it is more effective to reach a broad political consensus around a list of core rights for migrant workers.

Recommendations

For the African Union

- Promote effective coordination mechanisms to ensure migration policies within RECs are harmonised and in line with the continental integration framework. The issue of overlapping and concurrent membership of different RECs in the region has the effect of undermining the process of economic integration and needs also to be addressed.
- Strengthen the capacity of RECs and member states to collect and analyse labour migration data in order to adequately assess labour demand and skill needs in the region.

For SADC member states

- It is necessary for Southern African states to enhance collection, analysis and dissemination of migration data in order to promote evidence-informed policy decisions. Research findings gathered by researchers, NGOs, think tanks and CSOs can contribute to the formation of new ideas and concepts on the African migration narrative.

- One of the key features of regional integration, particularly in the political domain, is institutional integration. The lack of strong supra-national authorities capable of ensuring compliance, enforcement and sanctions undermines the process of regional integration, political transformation and policy reform. Therefore, one of the necessary conditions for achieving regional integration is to strengthen SADC's institutions' technical, administrative and financial capacities to implement, monitor and enforce regional integration agreements and sector protocols. Furthermore, it is mandatory for SADC institutions to reinforce and consolidate conflict-resolution mechanisms, as political crises and conflicts can undermine regional economic integration.
- All SADC member states should: a) adopt national policies that protect against forced labour, exploitation and trafficking and provide migrants with access to adequate social protections; b) adopt national minimum wage laws that require the regular and predictable payment of wages; c) enact legislation that grants access to national pension schemes and that guarantees the portability of social security coverage and benefits between and among countries to prevent migrants from losing entitlements due to their migration status. Migrant workers from SADC should be entitled to the same employment rights and protection of local workers and their access to the labour market should be consistent with international conventions and agreements. The low numbers of ratification of regional binding protocols and ILO conventions concerning migrant workers and employment provide an opportunity for member states, international organisations and civil society groups to discuss the creation of a list of core rights for migrant workers to complement existing international legal instruments.
- SADC member states have established institutional frameworks, at regional and national levels, to enhance CSOs' participation and engagement with the regional integration agenda. However, the involvement of CSOs in the affairs of SADC has remained limited due to structural and institutional weaknesses and financial constraints. It is recommended for member states to promote a meaningful engagement of CSOs with national, sub-regional and regional institutions through formal access mechanisms. NGOs across the

region and CSO umbrella bodies can contribute to the formation of new ideas and concepts on the African migration narrative through research and advocacy interventions and play an active role in conflict prevention, management and resolution.

South African government

- The White Paper emphasises the importance of attracting and retaining high-value migrants and the necessity of fast-tracking permanent residency and naturalisation for migrants with skills and capital. In line with the department's proposal, it is recommended that a point-based system be introduced for the recruitment of highly skilled migrants. A point-based system has the advantage of being transparent and allows potential immigrants to self-assess their visa applications. Highly skilled immigrants should also be allowed to change employers without undergoing a further application under the point-based system.
- It is recommended that the South African government revise the current permitting regime which does not provide adequate options for migrants with lower levels of skills and capital. It is necessary to offer safe and legal alternatives to economic migrants from SADC. The proposal to introduce a permitting regime, based on quota, to regulate legal migration by economic migrants from SACU countries, as well as Zimbabwe, Mozambique and Malawi, sounds reasonable and advisable. Such bilateral initiatives should be encouraged as stepping stones towards the establishment and implementation of a regional labour migration system.
- The management of unskilled and low skilled migrants presents a number of socio-economic and political challenges. There is, in fact, a growing perception that such immigrants are 'stealing jobs' and competing unfairly for public services. Research suggests that at the national level the impact (both fiscal and economic) of immigrants on the South African economy is likely to be positive. At the regional level, however, a higher share of immigrant workers may have a negative effect on the rates of employment of native-born workers. As such, it is advisable to put in place adequate measures to compensate potential adverse distributional consequences of labour migration that could affect certain segments of the South African population.

Notes

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