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The Governance of Labour Migration in the Context of Changing Employment Landscapes

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1.1 Introduction

Migration is complex and constantly evolving. Intra-continental migration has remained in Africa since the late 1980s, with increased diversification to Europe, North America, Gulf and Asia. Most cross-border migration takes place with the purpose of finding a decent job and seeking better livelihoods and wages. Available research shows that African labour migration is driven by development and social transformation which has led to increased capabilities to migrate. Migrant workers account for approximately 59 per cent of international migrant population (ILO, 2018). The situation is similar in Africa, as migrant workers accounted to about 52 percent of intra-Africa migration¹.

The World Migration Report (2020) highlights that there are over 21 million African living in another African country. Within Africa, migrant workers are usually engaged in informal jobs, agriculture or in the manufacturing, construction or service sectors and characterized by low skills and wages, insufficient social protection and significant decent work deficits. Women migrants in particular are vulnerable to abuse and exploitation, as they are very often found in low paid and informal sectors jobs such as domestic work and agriculture.

Historically, free movement of people has been recognized as an important factor for integration, prosperity and maximizing available resources, The Abuja Treaty encouraged cooperation among African Member States with the aim of developing, planning and utilizing their human resources and adopting free movement of persons within the Community. In the foregoing, migration has been an important factor for Africa's development with research showing that intra-Africa mobility is highest within the East Africa Community and Economic Community of West African States with 18.5 per cent and 16.7 per cent respectively. Movement to or within Central Africa accounted for 8.2 per cent while Southern Africa accounted for 6.7 per cent. Mobility within North Africa was only 3.3 per cent, but significant movement towards Europe².

African-Europe migration is most pronounced as in 2017, Europe hosted about 9.1 million African migrants³ with an increase to 10.6 million in 2019⁴. There was an approximately 15 percent increase in the number of residence permit issued to Africans by Europe from 2014 to 2016⁵. This directional movement has mostly been reported by the media, however significant Europe-Africa movement takes place at the same time. Apart from movement to Europe, in 2019 Asia hosted 4.6 million Africans while North America hosted 3.2 million⁶. The Gulf has also become an important receiving region, with about 3 million

¹ AUC (2017) Labour Migration Statistics Report

² Mo Ibrahim (2019) Most African migrants move within the continent available at [<https://mo.ibrahim.foundation/news/2019/most-african-migrants-move-within-continent>]

³ ibid

⁴ IOM (2020) World Migration Report

⁵ GMDAC(2017) African migration to Europe: How can adequate data improve evidence-based policy making and reduce misconceptions

⁶ IOM (2020) World Migration Report

African migrant workers⁷. This means that various aspects of the migration landscape must be considered including aspects of return migration, circulation and transnational practices to develop coherent and better migration policies.

1.2 Emerging issues

Given the ongoing health crisis, stakeholders have called for solidarity and a coordinated approach to managing the situation, however many countries deployed unilateral measures, in which unfortunately migrant workers are caught in the middle of the web. The pandemic affects whole societies indiscriminately, migrant workers included which necessitates a whole-of-society and whole-of-government approach in minimizing its impacts at all levels.

Nonetheless, migrant workers continue to provide essential services in various sectors including healthcare, agriculture, food processing and retailing. The vulnerability of undocumented migrant workers is heightened as they are unable to access national support mechanisms including healthcare, insurance, food assistance or other palliatives from the government for fear of been apprehended. There are numerous reports of abuse and exploitation of migrant workers ranging from increased discrimination at their workplaces, outright loss of jobs to mass deportations without consideration for appropriate reception facilities at the countries of origin.

In Africa, migrant workers are engaged in the informal economy, especially women, usually without any form of social protection and majority on daily wages. With lockdowns, travel bans and closed borders, migrant workers face increasing difficulty in affording basic necessities for themselves and their families. It can be predicted that these challenges will lead to a downward trend in remittances, which is critical for the sustenance of migrants' families back home. Global remittances are projected to decline sharply by about 20 percent in 2020 due to the economic crisis induced by the COVID-19 pandemic and shutdown. Remittances to Sub-Saharan Africa is expected to decline by 23.1 percent especially since key destination countries like EU, US, Middle East and China are most affected.⁸

These emerging issues have called for a review of the entire labour migration landscape, especially for middle to low skilled jobs ranging from recruitment processes, social protection for migrants and their families, bilateral labour migration agreements, negotiation of decent work options including housing and accommodation arrangements, return and reintegration of migrants during crisis, respect and protection of their rights . It also calls for the ratification/domestication/implementation of several key ILO, AUC and REC protocols which provides for the rights and protection of migrant workers. The health crisis has unveiled the underground economy of migrant workers in developed countries.

⁷ CIDO (2017) African Diaspora in the Gulf

⁸ Worldbank (2020) Worldbank Predicts Sharpest Decline of Remittances in Recent History available at [<https://www.worldbank.org/en/news/press-release/2020/04/22/world-bank-predicts-sharpest-decline-of-remittances-in-recent-history>]

In Europe, several countries have regularization schemes, for undocumented/irregular migrants, for critical sectors of their economies where gaps and needs for labour exist. More importantly under the current situation with COVID19, leaving undocumented/irregular migrants on the shadows without access to information and access to health and social services might exacerbate the spread of the pandemic. Considering the catalytic effect of migrant entrepreneurs to their host countries, strategies must be put in place to protect migrants' businesses to prevent lay-offs and loss of investments. African governments must also expand opportunities for diaspora contributions including through entrepreneurship.

The post-pandemic era may see an increased drive to attract more talent and skills from Africa, which may have dire consequences in critical sectors in Africa, including health and education. ILO projects that COVID 19 could trigger 195 million job losses globally in the first quarter of 2020, out of which about 20 million jobs in Africa may be affected. To forestall this, African governments to address skills needs within Africa through promotion of circular migration.

It is no secret that the pandemic has called for a review of all aspects of governance including migration and labour migration policy and systems. Existing structures and systems have been tested, and gaps must be closed through partnership, sustained commitment and a 'whole-of-society' and 'whole-of-government' approach. As recommended by the Global Compact for Safe, Orderly and Regular Migration, policies, priorities, response plans and strategies must be coherent, right based with contributions from a broad range of stakeholders and taking migrants in account. The Private Sector needs to be more formally brought into these processes.

Of consequence is the urgent need for African governments to expand social protection especially to the huge number of migrant workers in the informal economy. Stakeholders must be committed to the review and implementation of various mobility and social security instruments existing at the national and regional levels as well as ensure that accrued benefits are easily portable. For instance, ECOWAS has developed its Convention on Social Security while SADC has developed its Portability of Social Security Framework. Political commitment of Member States matched with increased awareness of the provisions of these frameworks as well as increased accountability mechanisms is needed to ensure that these instruments are implemented, for the benefit of migrants and their families.

Another important development at the continental-level is the adoption of the African Continental Free Trade Agreement (AfCFTA) which was signed in 2018 and came into force in 2019. AfCFTA is the largest free trade agreement since the establishment of the World Trade Organization and has the potential of accelerating intra-African trade (expected to grow by thirty three percent), expanding markets, promoting diversification, structural transformation and job creation. The potential benefits of the Agreement is hinged on successful management of labour, goods, services, capital in addition to mobility of persons. This will imply increased demand for skilled workforce to meet the

needs of increasing industrialization as well as solid framework for the protection of migrant workers' rights. Specifically, the issue of upskilling of the workforce, educational and professional mobility, value addition, skills and qualifications recognition, review of visa schemes and permits must take the centre stage.

The African Union Protocol on Free Movement, Rights of Residence and Rights of Establishment was adopted by Member States in 2018. When in force⁹, the Protocol will also ease intra-African mobility and migration of migrant workers. The Protocol will foster intra-Africa labour mobility, knowledge and skills sharing, boost remittance flows and promote the protection of African migrant workers. The Protocol has made provisions for mutual recognition of qualifications, portability of social security benefits, coordination and harmonization among Member States.

1.3 Governance of labour migration

Changing employment landscape is characterized by, among others, globalization, digitalization, gender dimension/ feminization of migration, long term care work, aging in developed countries versus youthful population in regions as in the case of Africa. The African Union has developed several documents and programmes which guide labour migration management. Policy coherence and institutional partnerships and coordination between stakeholders with mandate on migration, labour migration and employment policies is of utmost importance to ensure coherence.

The African Union has integrated labour migration policy in the Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development, as the 5th Key Priority Area among the six Key Priority Areas. Labour migration is also mentioned one of the pillars of the Revised Migration Policy Framework for Africa (2018-2030). The Framework offers comprehensive guidelines to Member States and RECs in their efforts in strengthening the link between migration and development as well as addressing migration challenges in Africa. This anchor should be leveraged in the implementation process and maximized in improving coherence across all government policies including labour migration and employment.

The AU-ILO-IOM-ECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP) is a bold programme adopted by African Union Heads of State and Government in 2015 to contribute to improved labour migration governance to achieve safe, orderly and regular migration in Africa as committed in relevant frameworks of the African Union (AU) and Regional Economic Communities (RECs), as well as relevant international human rights and labour

⁹ 33 Member States have signed onto the Protocol but four namely Rwanda, Niger, Mali and Sao Tome and Principe have ratified. 15 ratifications are required for the Protocol to enter into force.

standards and other cooperation processes.

Another important platform for labour migration governance in Africa is the AU Labour Migration Advisory Committee (AU-LMAC), which is a tripartite forum bringing together Regional Economic Communities, social partners' organizations as well as civil society and diaspora organizations, including important factors such as the Pan African Parliament and the academia. LMAC is a platform for structured, ongoing and result oriented dialogue aimed at proffering advice to governments on labour migration governance and protection of the rights of migrant workers and their families. AU LMAC has contributed to improved dialogue, identification of opportunities for cooperation and strengthened linkages among several actors in the world of work.

At regional level, the Social Dialogue Forums (for instance of the ECOWAS and SADC) is a model that can be emulated by other RECs. This provides an opportunity for tripartite consultations among partners (Ministries of Labour, employers and workers' organisations), collective negotiations and capacity building. Similarly, social dialogue institutions at country level offers the opportunity to include various segments of the society involved in the labour migration governance. At the international stage, appropriate mechanisms can be leveraged for optimal benefits, such as the GFMD and other forums like the G20.

The Regional Economic Communities have several legal and policy frameworks on labour migration governance. Protocols on Free Movement have been developed by IGAD, ECOWAS, COMESA, ECCAS. EAC has a Common Market Protocol while SADC Its Employment and Labour Protocol. IGAD also has a Regional Migration Policy while SADC has developed a Labour Migration Action Plan (2020-2025).

1.3.1 Partnerships

Partnerships need to be promoted between African countries and destination countries of key importance . Notably, due to increased intra-African labour mobility, most countries are both a destination and origin country for migrant workers, and sometimes a transit country, the perspective when formulating partnerships should take this into consideration for more effective and comprehensive policies. Political will matched with coherent structures will give room for implementation of these policies at the country level.

The AU-EU Strategic Partnership and the Africa-Arab League Partnerships are among the existing partnership models. They cover labour migration among several other issues. There is still need for more mechanisms dedicated to multilateral cooperation and partnerships on labour migration, similar to the Colombo process and the Abu Dhabi

Dialogue.

As committed in the 2015 New York Declaration on Migrants and Refugees, Africa can continue to leverage its Regional Consultative Processes (i.e. state-led, ongoing, regional information-sharing and policy dialogues dedicated to discussing specific migration issue(s) in a cooperative manner among States from an agreed (usually geographical) region, and which may either be officially associated with formal regional institutions, or be informal and non-binding) to further explore partnerships on enhancing labour migration governance. Regional Consultative Processes (RCPs) usually address wide-ranging labour mobility-related issues such as protection of migrants' rights, migration and development, labour migration, counter migrant smuggling, counter human trafficking, remittances etc.

In January 2020, during the Ministerial Forum on Harmonizing Labour Migration Policies in East and Horn of Africa, Ministers of Labour and Social Affairs representing twelve (12) countries in the East and Horn of Africa Region committed to a united approach on safe, regular and humane labour migration. The Forum, organized in line with commitments made by the Member States through the Agenda 2030 and Agenda 2063 as well as the AU Free Movement Protocol was convened by the Government of Kenya in collaboration with the International Organization for Migration (IOM), and was also attended by representatives of the East African Community (EAC) and the Intergovernmental Authority for Development (IGAD). It was also in line with interventions taking place through joint inter-agency initiatives such as the JLMP, the intra-African Symposium on Labour Mobility, 2018 and the Global Conference on the Regulation of International Recruitment, 2019.

The future for Africa is to engage on regional multilateral labour migration cooperation mechanism and inter-regional labour migration multilateral cooperation platforms. This approach is necessary, considering that more than 70% of migrants are moving in search of jobs or better jobs that are more decent. Bilateral Labour Migration Agreements (BLMAs) are a critical tool to support labour migration governance and policy coherence. It is important that stakeholders explore and expand the scope of BLMAs to other skills, beyond the current focus on domestic migrant workers.

1.3.2 Data Management and Labour Market Information Systems

The African Union Labour Migration Policy recognizes the central value of evidence-based policy on labour migration. In this regard, the AU in collaboration with ILO and IOM have produced the Labour Migration Statistics Report and have set as a priority output establishing a labour migration statistics and data system in the continent. Two editions of the labour migration statistics report were produced in 2017 and 2019. As part of the

process, the knowledge and expertise of statisticians and labour statistics experts on data collection and analysis was strengthened, including on the collection of new types of labour migration data through administrative data at border entities. This is a valuable asset for Member States. The next steps will require aligning labour migration data systems with employment policies for coherence, through integrated Labour Market Information Systems.

It is common knowledge that the world of work is changing globally. There is global competition for skills, more emphasis on IT and mathematics skills, high mobility of businesses and jobs and increased access to jobs through virtual channels. Skills development through formal and informal training facilities, including upgrade of the Technical and Vocational Education and Training (TVET) systems, review of training curriculum and expansion of internship opportunities for young people should be the priority. Overall, job requirements by employers must be taken into account when designing training systems, as this will improve the employability, competitiveness and relevance of skills. A host of actors are involved in the labour migration landscape including training institutions, employers, schools, policy makers, and there must be coordination and synergy at national, regional and continental levels. A good practice, highlighted is the establishment of Technical Working Groups, involving relevant actors in labour migration governance, including government authorities, social partners (workers and employers' organisations), training and certification agencies, the private sector.

In addition, data on available jobs and skills must be systematically collected to enable effective matching and fact-based policy making. Unfortunately, many countries still operate systems that are not interoperable, so do not have a good mechanism for systematic collection of labour migration data. A good strategy is to link national labour exchange systems (containing data on available skills and opportunities) to agencies in charge of social security agencies, employment services, business registry, tax offices, training institutions, national statistics offices, employment agencies. This will require harmonization of standards and systems but will make for improved, efficient and demand-driven labour data management.

In addition, given that continental and regional labour migration protocols are usually predated by national employment and education policies, there should review and harmonization of these instruments to ensure that they are consistent and allow for protection of migrant workers, with contributions from labour market institutions. In addition, strategies should be put in place to review cultural practices or beliefs, unethical practices, weak policy, regulatory or enforcement systems which encourage or accept forced labour in the continent, which exacerbates trafficking in persons especially for women and young children. ILO estimates up to 660,000 victims of forced labour in Sub-Saharan Africa¹⁰. WalkFreeFoundation posits that in 2016, 9.2 million people were living

¹⁰ https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_075494/lang--en/index.htm

in modern slavery in Africa¹¹. Victims may be child servants involved in various activities including domestic and economic activities, agriculture, child soldiers, child brides. The vulnerability of migrant children, especially girls is heightened as there are weak mechanisms for tracing, follow up and incidence reporting.

1.4 Conclusion

The labour migration landscape is a very wide one and requires all stakeholders to be involved and capacitated at both the individual and institutional levels. There are still a lot of areas of improvement. There is need to strengthen existing systems to ensure upskilling of young Africans, productivity of workforce and ensure decent work opportunities for women and men and promotion of ethical recruitment. In particular, the different challenges faced by migrant women needs to be recognized and addressed in policies and redressal mechanisms put in place. Within the migration cycle, the migration and development nexus have to be strengthened, to leverage on diasporic capitals, including human, cultural, social and economic contributions and not just remittances. A coordinated approach is needed at national, regional and continental levels. Several instruments have been developed and all stakeholders must be committed to put structures in place for implementation. Social partners play an important role and their capacities must be strengthened to continue to hold governments accountable, for the benefit of migrant workers. The global pandemic has highlighted governance gaps in both countries of origin and destination and partnerships are important to strategically address them. In anticipation of a wave of industrialization due to the AfCFTA, existing systems must support upskilling, skills recognition, portability of benefits. At the same time, concrete steps need to be taken to streamline the linkages between the AfCFTA and the AU Free Movement Protocol for effectiveness of their implementation. Appropriate investment is needed to ensure that data systems are harmonized and structured to meet the needs of a broad range of stakeholders.

¹¹ The Global Slavery Index (2018) available at <https://cdn.walkfreefoundation.org/content/uploads/2018/12/12101621/GSI-Africa-Report-1544580531.pdf>