



SOUTHERN AFRICAN MIGRATION MANAGEMENT PROJECT

MAURITIUS: LABOUR MIGRATION REVIEW

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1. INTRODUCTION

Mauritius has shown considerable commitment to global policies reflecting interest in ensuring international migration becomes as a triple win situation-in countries of origin, transit and destination. It is the only SADC country to have hosted the Global Forum on Migration and Development (GFMD, 2012) and has a well-developed policy of diaspora engagement, investment and return migration (IOM, 2021). In 2014, the Economic Development Board established a Mauritian Diaspora Unit and Mauritian Diaspora Scheme (Economic Development Board, 2021). In addition, Mauritius has established a Circular Migration Project for the temporary employment of Mauritians in Europe, North America and Australia and Canada (YouTube, 2016), as well as in voluntary return programmes (IOM, 2021). Data on labour migration is current and comprehensive. For example, in January 2022, data on the migrant workforce was available in the public domain for as recent as October 2021 (Republic of Mauritius, 2021a).

Temporary labour migration to Mauritius is also seen as an important contributor to the country's economic development (IOM, 2013). Mauritius is the only Southern African country with a formal temporary migration policy involving recruitment and temporary employment of low-wage, semi-skilled migrants in specific sectors, particularly manufacturing. Most labour migrants originate from Asian countries such as Bangladesh, India, China and Sri Lanka. The two main SADC countries of migrant origin are Madagascar and South Africa. Most of the research on labour migration to Mauritius has focused on recruiting and working conditions for migrants and is based on surveys of migrants and key informant interviews with recruiters, company personnel and government officials (Kothari, 2013; Puygrenier, 2021; Suntoo, 2012; Suntoo and Chitoo, 2011; Varaden et al, 2020). Mauritius also attracts, in official language "high net worth" migrants through migrant investor schemes who receive renewable temporary residence permits in exchange for investing in the country, particularly in real estate (Ramtohol, 2016).

Mauritius has taken a lead role in Southern Africa in promoting the development value of both inward and outward migration and in 2018 the government issued a National Migration and Development Policy. Mauritius is also to the fore in implementing the UN Global Compact for Safe, Orderly and Regular Migration. Although the numbers of foreign migrant workers in Mauritius have steadily risen in the last 20 years, the Minister of Labour, Industrial Relations, Employment and Training is on record as saying that the objective of government is to reduce dependency on foreign workers

by restricting recruitment only to skill scarcity areas and replacing migrants with Mauritians (Sookrajowa and Joson, 2018: 270).

Patterns of labour migration to Mauritius are unique amongst Southern African countries in that the vast majority of migrants come from outside the region. This review of labour migration to Mauritius first presents the statistical evidence for these trends and then summarizes the legal and regulatory framework governing immigration to the country and the employment of labour migrants.

2. NATIONAL MIGRATION AND DEVELOPMENT POLICY

A whole-of-government Migration and Development Steering Committee with representation from all ministries, as well as Statistics Mauritius, the Bank of Mauritius, and the IOM was established in 2015 to develop a National Migration and Development Policy in partnership with the International Centre for Migration Policy Development (ICMPD) between (MiEUX, 2017). In June 2018, the National Migration and Development Policy and accompanying Action Plan were formally endorsed by Government. The Plan addresses the development role of all forms of migration both from as well as to Mauritius, and has four main pillars:



PILLAR I: Policy and institutional coherence

The Policy aims at operationalising the Mauritius Vision 2030 that seeks to address unemployment, alleviate poverty, and ensure sustainable development and innovation. It also creates coherence with several policies from other areas that have an impact on and can be impacted by migration.



PILLAR II: Prosperity

The policy aims at addressing various ongoing and future development challenges while tapping into different migration-driven opportunities. Its purpose is to address a range of aspects, including the benefits of immigration, diaspora mobilisation, circular migration, the impact of climate change on migration, the use of remittances, internal mobility, etc.



PILLAR III: Partnership

The policy intends to set up innovative and multi-stakeholder partnerships between the government and civil society, local authorities, diaspora organisations, the private sector, regional and international organisations, business associations, academia, social partners, the media, chambers of commerce, and others. It also responds to the commitment of Mauritius to translate the Sustainable Development Agenda into action at the national level, including through diverse partnerships.



PILLAR IV: Protection

The policy reinforces and mainstreams the commitments undertaken by the Government of Mauritius, which has ratified a number of international and regional conventions committing to promote universal respect for and observance of human rights and freedoms for all.

The NMDB also has three intervention axes

- ▶ **Axis I:** Facilitating Safe, Regular and Orderly Migration
- ▶ **Axis II:** Maximizing the Socio-Economic and Human Development Impact of Migration
- ▶ **Axis III:** Strengthening the Domestic Migration Governance Framework

A specific section of the Plan addresses migration and national labour market and employment policies. The broad objective of the section on migration and national labour market and employment policies is to tap into the potential of migration with the aim to achieve the labour market's and employment policies' goals. To achieve this broad objective, several policy measures are proposed:

1. Establish a fully-fledged national employment policy to aim at increasing employment and meeting the demands of the labour market and of the economy, based on the decent work agenda principles. Considering the status of Mauritius, as both a receiving and sending country, the employment policy shall fully take into consideration the socio-economic role of migration in shaping the domestic labour market needs and derive maximum benefits from labour migration, including diaspora engagement and immigration;
2. Evaluate quantitatively and qualitatively, from skills and employment perspectives, the labour market needs and priorities linked to further developments in relation to diverse sectors and national strategies (e.g. ocean economy, manufacturing, Mauritius Africa Strategy) in order to determine future scenarios and the impact on the labour market, and inward and outward migration;
3. Take action for the revalorisation of certain sectors and jobs, such as manufacturing (the largest employer in the country), Hotel and Tourism, Health, Finance, ICT and construction sectors, so as to attract local jobseekers. Working conditions, various incentives and remuneration policies need to be reviewed and provide more favourable conditions;

4. Establish programmes supporting local jobseekers to acquire knowledge from foreign professionals (foreign companies, foreign workers and specialists) and diaspora members to be able to serve in various sectors;
5. Based on the assessment of the emerging needs of the market, explore possibilities and opportunities for collaboration in the labour field with countries in the region and in Africa (in light of the Mauritius Africa Strategy and its expected outcomes), in particular with member states of COMESA, SADC and the IOC;
6. Operationalise the Accelerated Program for Economic Integration (APEI) framework in order to cater to the labour market needs and to create employment opportunities;
7. Improve, on a regular basis, the Labour Market Information System and enhance the role and capacities of the Public Employment Information Centres in terms of information and services delivery to job seekers, returned migrants, and would-be migrants.
8. Following the endorsement of the National Policy on Migration and Development in June 2018, where the Government recognized the important role of the Diaspora as a partner for development. In line with the adoption of the National Migration and Development Policy and related Action Plan, the Ministry of Foreign Affairs has, in collaboration with the IOM Mauritius, initiated the “Building the Capacity of the Mauritian Government to Strengthen Linkages with the Mauritian Diaspora” project in November 2018. Following the completion of the pilot mapping and profiling survey of the Mauritian Diaspora in Australia, Canada and the United Kingdom, the Government agreed to the implementation of some of the recommendations of the National Diaspora Engagement Action Plan.¹

1 <https://migrationnetwork.un.org/system/files/docs/Mauritius%20-%20National%20voluntary%20GCM%20review%20%28August%202021%29.pdf>

3. LABOUR MIGRATION TRENDS AND DYNAMICS

3.1 Migration Data

The main data sources for labour migration to Mauritius include the following:

- ▶ UN DESA Migrant Stock Country Profile
- ▶ UN DESA Migrant Stock by Origin and Destination 2019 Update
- ▶ Mauritius Digest of Labour Statistics (Statistics Mauritius, 2021)
- ▶ Survey of Employment and Earnings in Large Establishments (Statistics Mauritius, 2020)
- ▶ Statistical Data on Labour Market (Republic of Mauritius, 2021a)

The UN DESA database and country profile provides a picture of the changing composition of the migrant stock of Mauritius (defined as the number of foreign-born in the country). Most migrants in Mauritius have legal status and irregular migration is uncommon. As a result, migrant stock data provides a reasonable estimate of the migrant workforce. The Employment Service Monthly Bulletins posted by the Labour Ministry are the most up-to-date source of data on labour migration with month-by-month reporting of the number of valid work permits, and new and renewed work permits, as well as the sectors and countries of origin of existing and new work permit holders (Republic of Mauritius, 2020a).

3.2 Migration Trends

UN DESA migrant stock data indicates that the total number of international migrants in Mauritius increased from around 3,600 to 28,800 in 2019 (Table 1). The proportion of migrants in the total population increased from 0.3% in 1990 to 2.3% in 2019. Females constituted a high of 63% of the migrant stock in 2000 but had fallen to 45% in 2020. Nearly 90% of migrants are of working age (20-64) although the average age of migrants has been rising from 31 in 1990 to 42 in 2020. Although the numbers have increased since 2000, less than 12% of the migrant stock was from other Southern African countries in 2019, with Madagascar and South Africa the most prominent.

► **Table 1: Migrant Stock of Mauritius, 1990-2019**

	1990	1995	2000	2005	2010	2015	2019
International migrants	3,600	7,500	15,500	19,600	24,800	28,600	28,800
Share of total population (%)	0.3	0.7	1.3	1.6	2.0	2.3	2.3
Females %	51.2	56.9	63.3	54.5	46.9	44.6	44.6
Median Age	30.6	31.6	29.8	32.9	36.5	39.4	42.0
Age Group (%)							
0-19	33.5	24.0	6.8	10.1	10.7	10.4	9.0
20-64	57.4	71.3	91.8	87.3	86.3	86.4	87.6
65+	9.1	4.6	1.5	2.5	3.0	3.2	3.4
Migrants from Southern Africa (%)	8.7	6.8	6.4	9.3	11.2	11.2	11.2

Source: UN DESA (2019a)

In 1982, Mauritius became an Export Processing Zone (EPZ) and embarked on a transition away from the colonial plantation economy to a manufacturing and tourism-based development strategy. This period also represented the start of labour recruitment from Asia by private contractors. By the early 2000s, migrants formed a crucial component of the EPZ workforce in clothing and textile factories (Lincoln, 2006, 2009). At this time, labour legislation distinguished between workers inside and outside the EPZ with migrants “recruited abroad under fixed term contracts, (and) housed and fed at the employers’ expense in dormitories that are typically close to the factories” (Lincoln, 2009: 141). In 2001, the Ministry of Labour, Human Resource Development and Training (MLHRDT) created a Special Migrant Workers’ Unit to serve migrants by vetting their contracts and monitoring their work and living conditions; the ministry also put out a code of conduct for employers of labour migrants (Republic of Mauritius, 2004).

Republic of Mauritius (2020) reports a figure of 45,062 migrant workers (35,508 male and 8,553 female in January 2020). The latest government report notes the number of migrant workers in Mauritius in late 2021 was 35,205 (29,351 male and 5,484 female) (Republic of Mauritius, 2021b: 7). The latest Employment Service Monthly Bulletin for October 2021 distinguishes between work permits (22,703) and skilled occupation permits (4,878) giving a total workforce of 27,581 (Republic of Mauritius, 2021a: 55). The drop in numbers in 2021 is likely a result of the COVID-19 pandemic and repatriation of workers after the lockdown.

3.3 Countries of Migrant Origin

UN DESA (2019b) provides data on the country of origin (birth) of 28,852 migrants (Table 2). Of these, only 11% are from other SADC countries. The major source region is Asia with 75% of migrants. Another 10% are from Europe and North America. Madagascar (8%) and South Africa (2%) are the main SADC sources. As many as 60% of migrants come from two Asian countries: India (30%) and Bangladesh (29%). Other important Asian sources are China (10%) and Sri Lanka (4%).

► **Table 2: Countries and Regions of Migrant Origin in Mauritius, 2019**

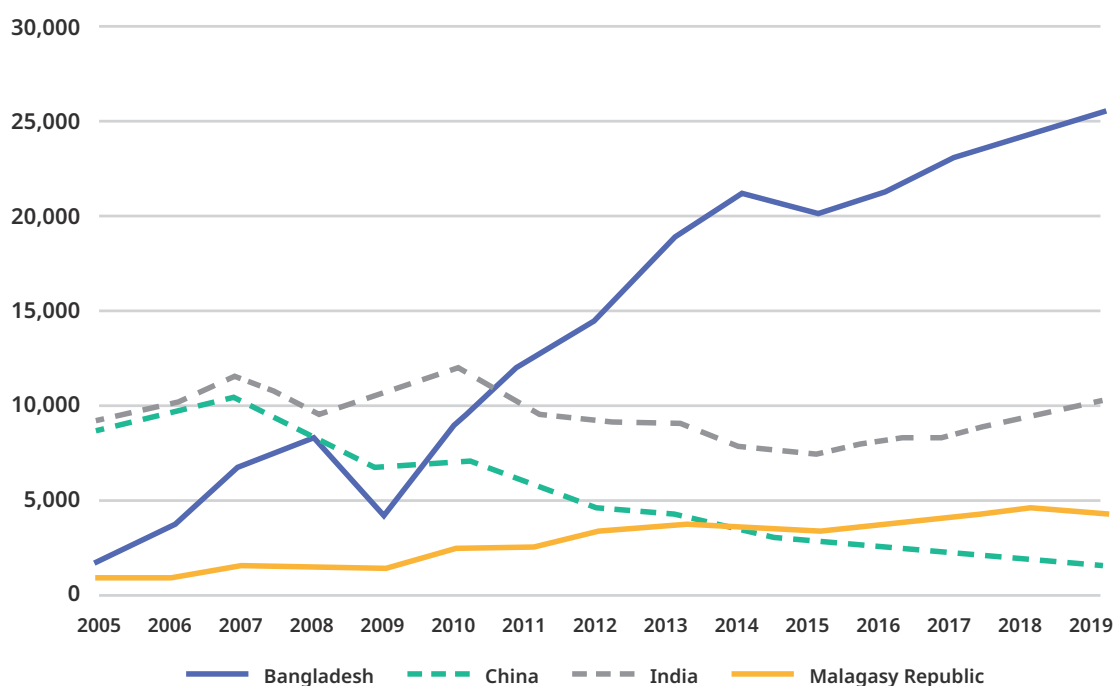
	Total Migrants	% of Total	No. of Females	No. of Males	% Female	% Male
Africa						
Madagascar	2,298	8	1,039	1,259	45.2	54.8
South Africa	627	2.2	287	340	45.8	54.2
Seychelles	128	0.4	78	47	60.9	39.1
Sub-Total	3,053	10.6	1,404	1,646	46.1	53.9
Asia						
India	8,741	30.3	1,437	7,304	16.4	83.6
Bangladesh	8,403	29.1	5,271	3,132	62.7	37.3
China	2,978	10.3	1,780	1,198	59.8	40.2
Sri Lanka	1,136	3.9	834	302	73.4	26.6
Pakistan	188	0.7	106	82	56.4	43.6
Malaysia	61	0.2	32	29	52.5	47.5
Hong Kong	23	0.1	7	16	30.4	69.6
Japan	9	0.03	5	4	55.6	44.4
Sub-Total	21,539	74.6	9,472	12,067	43.8	56.2
Europe & North America						
France	1,518	5.3	601	917	39.6	60.4
UK	458	1.6	227	231	49.6	50.4
Italy	147	0.5	60	87	40.8	59.2
Germany	137	0.5	65	72	47.4	52.6
Belgium	119	0.4	25	94	21	79
Switzerland	105	0.4	28	77	26.7	73.3
Ireland	50	0.2	22	28	44	56
USA	49	0.2	25	24	50	50

	Total Migrants	% of Total	No. of Females	No. of Males	% Female	% Male
Europe & North America						
Russia	49	0.2	27	22	55.1	44.9
Canada	36	0.1	16	20	44.4	55.6
Spain	27	0.1	9	18	33.3	66.7
Sub-Total	2,695	9.5	1,105	1,590	41	59
Other						
Other South	1,373	4.8	716	657	52.1	47.9
Other North	192	0.7	120	72	62.5	37.5
Sub-Total	1,565	5.5	836	729	53.4	46.6
TOTAL	28,852	100	12,817	16,032	44.4	55.6

Figure 1 confirms that since 2005, Bangladesh has become the most important source of migrant workers while the numbers from China have dramatically declined since 2007. Indian numbers have remained relatively stable.

The government's Employment Service Monthly Bulletin provides data on the origins of all migrant workers in a regular situation (valid work permit holder and certificate of exemption holders) in the country in October 2021, 18 months into the COVID pandemic (Table 3) (Republic of Mauritius, 2021a). Comparing this data with the 2019 UN DESA data suggests that the number of migrant workers from Bangladesh and India has increased in the last two years while the number from Sri Lanka and China has declined. The size of the Chinese workforce has declined from 10,000 in 2007 to less than 400 at present. Bangladesh. SADC migrants still make up only 9% of the total (mostly from Madagascar). Over 90% of migrant workers currently come from outside SADC with Bangladesh and India making up 85% of the overall total.

► **Figure 1: Trends in Labour Migration to Mauritius, 2005-2019**



Source: Puygrenier (2021)

► **Table 3: Migrant Workers in Mauritius, October 2021**

	Valid Work Permits	%	Certificates of Exemption	%	Total	%
Bangladesh	13,385	59.0	9	0.2	13,394	48.7
India	5,596	24.6	4,531	93.2	10,127	36.7
Madagascar	2,424	10.7	79	1.6	2,503	9.1
Sri Lanka	378	1.7	1	<0.1	379	1.4
China	321	1.4	13	0.3	334	1.2
Nepal	279	1.2	28	0.6	307	1.1
France	56	0.2	94	1.9	150	0.5
South Africa	29	0.1	6	0.1	35	0.1
Other SADC	17	0.1	14	0.3	31	0.1
Other	218	1.0	103	2.1	293	1.1
Total	22,703	100.0	4,878	100.0	27,581	100.0

Source: Republic of Mauritius (2021a)

3.4 Age and Sex Distribution of Migrant Population

Figure 2 shows the population pyramid for the migrant stock of Mauritius recorded by UN DESA (2019b) and compares the distribution by age group and sex with that of the total population. Assuming that working age is a proxy for labour migration, most male migrants fall into the 35-55 age group. The age distribution of female migrants is more dispersed with a significant number of female migrants in their 20s.

► **Figure 2: Age and sex distribution of international migrants and of the total population in Mauritius, 2019 (percentage)**

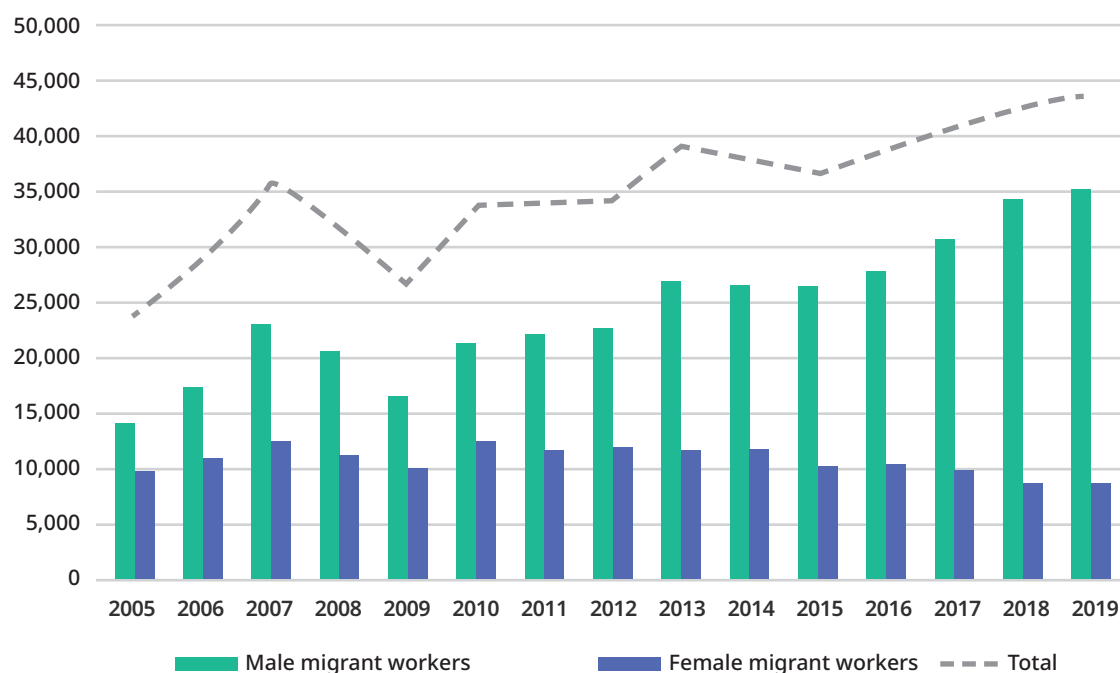


Source: UN DESA (2019a)

Before 2005, more women (mainly from Ningbo in eastern China) than men were recruited.

The situation reversed after 2005, when employers found it cheaper to start recruiting men from other Asian countries (Lincoln, 2009, 2012). As Figure 1 shows, the number of male labour migrants has grown considerably since 2010 while the number of female migrants has decline. Figure 3 shows that much of the increase in male migrants is the result of recruiting in Bangladesh. Bangladeshi migrants have rapidly expanded to over 60% of the workforce while the number from other countries has remained stable or, in the case of China, has declined.

► **Figure 3: Composition of Migrant Workforce by Sex, 2005-2019**



Source: Puygrenier (2021)

Table 2 above shows the sex breakdown of the migrant stock by region and country of origin. Overall, the migrant population is 56% male and 44% female. This breakdown is repeated with minor variations in each region: Africa (54% male, 46% female), Asia (56% male, 44% female), Europe and North America (59% male, 41% female). However, at the country level a different picture emerges. For example, the sex breakdown for India is 84% male and only 16% female. In contrast, China is 60% female and 40% male, Bangladesh is 63% female and 37% male, and Sri Lanka is 73% female and 27% male.

The annual Digest of Labour Statistics provides other data on the size of the foreign workforce and sex breakdown which suggests the contemporary workforce is much more male-dominated (Statistics Mauritius, 2021). In 2019, there were 30,900 migrant workers (80% male, 20% female) and in 2020 the number rose to 31,800 (81% male, 19% female). The latest available statistics for October 2021 show a further increase in male dominance (86% male, 14% female). Table 4 provides a breakdown by sex by country of origin and indicates contrary to UN DESA that all of the major source countries have more male than female migrant workers.

► **Table 4: Migrant Workers in Mauritius by Sex, October 2021**

	Male	%	Female	%
Bangladesh	10,844	81.0	2,550	19.0
India	9,941	98.2	186	1.8
Madagascar	1,733	69.2	770	30.8
Sri Lanka	239	71.0	140	29.0
China	279	83.5	55	16.5
Nepal	305	99.3	2	0.7
France	82	54.7	68	45.3
South Africa	24	68.6	11	31.4
Other	222	68.9	100	31.1
Total	23,699	85.9	3,882	14.1

Source: Republic of Mauritius (2021a)

3.5 Migrant Employment

Table 5 is from the most recent Survey of Employment and Earnings in Large Establishments in March 2018 (Statistic Mauritius, 2020) and includes all businesses with more than 10 employees. As the Table shows, manufacturing (especially food and textiles) is the largest employer of both men and women. In total, 70% of migrant workers were in the manufacturing sector in 2020 including 66% of males and 85% of females. Male migrant workers predominate in most other sectors including construction, which is the second largest sector overall, and wholesale and retail trade. The only other sector with more than 500 migrant workers is accommodation and food services (663 in total, 54% male, 46% female).

► **Table 6:** Foreign workers employed in large establishments by industrial group and sex, March 2018-March 2020

Industrial Group	2018 ¹			2019 ¹			2020 ²		
	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes
Agriculture, forestry and fishing	45	2	47	83	1	84	105	1	106
Mining and quarrying	16	-	16	26	-	26	-	-	-
Manufacturing	16,790	7,504	24,294	17,325	5,641	22,966	16,313	5,918	22,231
<i>of which food (excluding sugar)</i>	915	1,363	2,278	994	1,343	2,337	1,018	1,392	2,410
<i>textiles and wearing apparel</i>	14,541	6,098	20,639	14,987	4,247	19,234	13,645	4,438	18,083
Electricity, gas, steam and air conditioning supply	2	-	2	2	1	3	3	1	4
Water Supply, sewerage, waste management and remediation activities	22	-	22	24	-	24	13	-	13
Construction	2,748	9	2,757	5,063	7	5,070	5,680	11	5,691
Wholesale and retail trade; repair of motor vehicles and motorcycles	478	43	521	651	46	697	996	53	1,049
Transportation and storage	115	5	120	108	6	114	155	8	163
Accommodation and food service activities	274	85	359	277	76	353	358	305	663
Information et communication	308	91	399	298	90	388	296	93	389
Financial and insurance activities	164	35	199	185	43	228	172	48	220
Real estate activities	10	2	12	9	3	12	7	2	9
Professional, scientific and technical activities	163	53	216	176	59	235	206	59	265
Administrative and support service activities	126	73	199	136	59	195	150	58	208
Public administration and defence; compulsory social security	29	-	29	39	3	42	135	68	203
Education	92	111	203	77	115	192	106	121	227
Human health and social work activities	120	80	200	112	74	186	119	83	202
Arts, entertainment and recreation	15	12	27	19	11	30	17	5	22
Other service activities	75	11	86	64	7	71	84	6	90
Total	21,592	8,116	29,708	24,674	6,242	30,916	24,915	6,840	31,755
<i>Export oriented enterprises</i>	<i>15,402</i>	<i>7,423</i>	<i>22,825</i>	<i>15,827</i>	<i>5,564</i>	<i>21,391</i>	<i>14,610</i>	<i>5,840</i>	<i>20,450</i>

1 Revised 2 Provisional

Source: Statistics Mauritius (2020)

A more detailed occupational profile for new and renewed work permit holders is available in the monthly labour market statistical bulletins which identify over 80 different job categories in which migrants work (Republic of Mauritius, 2022a).

3.6 Migrant Remittances

The Bank of Mauritius publishes a comprehensive Monthly Statistical Bulletin that contains quarterly data on remittances from 2017 to 2021 (Bank of Mauritius, 2021). Table 7 aggregates quarterly figures into an annual total of remittances sent from Mauritius for the top five migrant origin countries. These include two SADC countries (Madagascar and South Africa), two Asian countries (Bangladesh and India) and two European countries (France and the UK).

► **Table 7: Remittances from Mauritius to Top Five Migrant Destination Countries (Rmillion)**

	2017	2018	2019	2020	2021	TOTAL
Bangladesh	1,711	2,147	2,624	2,608	3,468	12,558
India	1,454	1,843	2,689	2,783	2,798	11,567
Madagascar	108	227	278	271	246	1,130
France	313	482	302	353	357	1,807
South Africa	204	180				384
UK			109	137	178	424
Other	1058	1282	1132	1286	1298	6056
TOTAL	4848	6161	7134	7439	8345	33927

Note: USD1 = R45

Source: Bank of Mauritius Monthly Statistical Bulletins

Data is also provided on remittances by employment sector for the period 2017-2021. Table 8 shows the annual remittance outflow from Mauritius by migrant employment sector. Manufacturing, the largest employer of labour migrants, is also the sector which generates the highest level of remittances. Other sectors with significant remittance involvement include construction, services (of various kinds) and the professions and other highly skilled migrants.

► **Table 8: Remittances from Mauritius by Sector of Migrant Employment (Rmillion)**

	2017	2018	2019	2020	2021	TOTAL
Manufacturing	2,954	3,651	4,175	3,754	4,702	19,236
Construction	220	315	979	1,335	1,321	4,170
Accommodation and food services	229	386	576	541	417	2,149
Professional, scientific and technical activities	376	501	302	353	447	1,979
Financial and insurance activities	449	360	311	293	228	1,641
Other service activities	204	307	336	329	354	1,530
Information and communication	101	249	123	144	239	856
Administrative and support services	42	75	80	135	152	484
Wholesale and retail trade	63	109	44	68	47	331
Human health and social work	95	99	84	75	72	425
Agriculture, forestry and fishing	21	27	50	132	172	402
Education	65	55	28	66	44	258
Other	28	27	46	123	130	354
TOTAL	4,847	6,161	7,134	7,348	8,325	33,815

Note: USD1 = R45

Source: Bank of Mauritius Monthly Statistical Bulletins

4. LABOUR MARKET POLICIES AND LEGISLATION

In August 2020, the Office of the United Nations High Commissioner for Human Rights (OHCHR) produced General Assembly Resolution A/RES/74/148 on the Protection of Migrants. The response from the Government of Mauritius notes that from a human rights perspective, the country does not distinguish between citizens and migrants (Republic of Mauritius, 2020). The response summarizes all relevant policies and legislation pertaining to the rights and protection of migrant workers in Mauritius:

4.1 Constitution of Mauritius²

Section 3 of the Mauritius Constitution entitled “Fundamental rights and freedoms of the individual” reads as follows:

“It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms:

- a. the right of the individual to life, liberty, security of the person and the protection of the law;
- b. freedom of conscience, of expression, of assembly and association and freedom to establish schools; and
- c. the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation,

and the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

Section 16 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. The term “discriminatory” means

2 <https://attorneygeneral.govmu.org/Documents/Laws%20of%20Mauritius/A-Z%20Acts/C/Co/Constitution,%20GN%2054%20of%201968.pdf>

affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.

According to IOM (2016), the Constitution does legitimize laws that discriminate against non-citizens according to their health status on the grounds that migrants with a disability or disease are a threat to public safety or a burden to the taxpayer.

4.2 Equal Opportunities Act (EOA) of 2008³

The EOA ensures better protection from discrimination as it prohibits both direct and indirect discrimination on the grounds of age, caste, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation. The EOA also prohibits discrimination by victimisation i.e. subjecting a person to discrimination or harassment because he or she has, or intends to report acts of discrimination.

4.3 Workers' Rights Act (WRA) of 2019⁴

According to current labour legislation in Mauritius, migrant workers enjoy terms and conditions of employment no less favourable than their local counterparts, and also benefit from all then same protections. Migrant workers therefore:

- ▶ Enjoy the same terms and conditions of employment, including minimum wages and leave benefits as those laid down for local workers.. Additionally, under Section 5 of the WRA, no worker is to be treated in a discriminatory manner by their employer in their employment or occupation and no person shall be treated in a discriminatory manner by a prospective employer in respect of access to employment;
- ▶ Are protected against termination of employment by virtue of Section 64 of the Workers' Rights Act (WRA). Section 64(1)(a) of the Workers' Rights Act provides that an agreement shall not be terminated by an employer by reason of a

3 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_126781.pdf

4 <https://labour.govmu.org/Pages/The-Workers'-Rights-Act-2019-and-Regulations.aspx>

worker's race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, impairment, marital status or family responsibilities;

- ▶ Have the right to be or not to be a member of a trade union and to participate in trade union activities, including the right to seek and hold appointment or election as officers of a union;
- ▶ Are protected against discrimination and victimization;
- ▶ Have the right to participate in collective bargaining and can report an industrial dispute to the competent Authority;
- ▶ Benefit from the payment of additional remuneration every year to compensate workers for the loss in purchasing power; and
- ▶ Benefit from the payment of an End of Year Bonus at the end of the year;
- ▶ Are covered by the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011. The Regulations aim at establishing norms for employees' lodging accommodation provided to any employee.

As such, Migrant workers enjoy the same terms and conditions of employment, including minimum wages as those laid down for local workers in labour legislation. Additionally, under Section 5 of the WRA, "No worker is to be treated in a discriminatory manner by their employer in their employment or occupation and no person shall be treated in a discriminatory manner by a prospective employer in respect of access to employment or occupation". Section 64(1)(a) of the Workers' Rights Act provides that an agreement shall not be terminated by an employer by reason of a worker's race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, impairment, marital status or family responsibilities.

4.4 Employment Relations Act (ERA) and Regulations⁵

The Employment Relations Act of 2008 As Amended guarantees the fundamental right of migrant workers to freedom of association and protects their right to organise and engage in collective bargaining. Section 29 of the Act protects in unambiguous terms the right of workers to be or not to be a member of a trade union and to

5 <https://labour.govmu.org/Pages/Employment-Relations-Act-2008-and-Regulations.aspx>

participate in trade union activities, including the right to seek and hold appointment or election as officers of a union. Section 30 of the Act protects trade union of workers against acts of interference whilst section 31 of the Act protects workers against discrimination, victimisation or termination of employment by the employer in the exercise of this right.

4.5 Immigration Act of 1970

Foreign nationals need a Residence Permit as well as a Work Permit to be employed in Mauritius legally (MLHRDT, 2016). While there is a common application for Residence and Work Permits, the permits are issued through separate entities. Residence Permits are granted by the Passport and Immigration Office, while Work Permits are issued by the Ministry of Labour, Human Resource Development and Training. The Passport and Immigration Office is a branch of the Mauritius Police Force and functions under the command of the Commissioner of Police and the Prime Minister's Office. It is the sole authority in Mauritius to provide Passport & Immigration Services.⁶ The Office is charged with enforcement of the Immigration Act and Regulations which regulate the conditions of entry and stay of non-citizens in Mauritius.⁷

The Immigration Act contains provisions and guidelines on prohibited immigrants (persons whose entry or stay in Mauritius is unlawful), residence permits, and liability of transport companies. Non-citizens are required to have either a work permit or a certificate of exemption (given to some employers) allowing them to take up employment or to engage in gainful occupation in Mauritius.

The occupation permit is a combined work and residence permit that allows higher-skilled foreign nationals and investors to work and reside in Mauritius. An occupation permit may be granted to foreign nationals under three categories: investor, self employed and professional. Different financial transfers are required for investors and self-employed persons in order to qualify for such permit. A professional employee employed in a company based in Mauritius may obtain a permit provided the person earns in excess of a certain amount. IOM (2013: 49) estimated that there were about 4,000 migrants with occupation permits, including just over 2,000 investors, and 600 retirees and 400 self-employed individuals.

6 <https://passport.govmu.org/passport/>

7 <https://attorneygeneral.govmu.org/Documents/Laws%20of%20Mauritius/A-Z%20Acts/1/Immigration%20Act-19.pdf>

4.6 Non-Citizens (Employment Restriction) Act of 1972⁸

The Non-Citizens (Employment Restriction) Act is the primary piece of legislation governing temporary residence in Mauritius for work purposes. There are three categories of permits; namely, work permits, exemption permits and occupation permits. Work permits are issued by the Employment Division of the Ministry of Labour, Human Resource Development and Training (MLHRDT) subject to certain conditions being met. Foreign workers normally aged between 20 and 60 years are eligible for a work permit if they possess the skills, qualifications and experience required for the job. A Mauritian company that is seeking to employ a foreigner must make an application for a work permit to the Ministry. Depending on the industry, the employer needs to seek prior approval to recruit foreign labour before submitting an application. The Ministry will then decide whether there is a scarcity of such labour on the local market and allow the employer to look for an ideal candidate abroad. The contract of employment for foreign employees earning under a certain earnings threshold must be vetted by the Labour Division of the Ministry. The purpose is to ensure that all conditions mentioned in the contract comply with defined definitions and legislation.

Pursuant to the Immigration and Non-Citizens (Employment Restriction) Acts, the MLHRDT (2016) provides detailed instructions for companies wishing to hire foreign workers in large numbers. These include the following:

- ▶ In case of application for groups of workers and / or skilled workers, a request for Permission in Principle has to be made to the MLHRDT and then apply for a work and residence permit for each worker;
- ▶ Employers wishing to hire migrant labour can opt for one of the following categories of permits:

▶ **Chart 1: Categories of permits for employing expatriates**



8 [https://labour.govmu.org/Pages/Non-Citizens-\(Employment-restriction\)-Act.aspx](https://labour.govmu.org/Pages/Non-Citizens-(Employment-restriction)-Act.aspx)

- ▶ Foreign skilled workers are normally granted work permits for a maximum period of four years. In the Textile Manufacturing Sector, skilled workers are allowed to work for a period of 8 years, leave the country on expiry, stay abroad for 1 year and may come back to work for another 8 years. In 2016, the Ministry issued detailed regulations for employers wishing to foreign recruit workers in large numbers.
- ▶ Foreign workers should possess the skills, qualifications and experience required for the job applied for;
- ▶ Foreign workers should normally be aged between 20 and 60 years;
- ▶ Visitors on tourist visa are not allowed to take up employment, and applications for work permit on their behalf are not accepted.
- ▶ For all new applications, expatriates have to produce a provisional health clearance.
- ▶ For recruitment of foreign skilled workers, the employer should obtain a Lodging Accommodation Permit in respect of the dormitory. Companies should submit Lodging Accommodation Permit in respect of their workers at least 3 months prior to the expiry of their current Lodging Accommodation Permit.
- ▶ Workers are granted 6 months from the date of issue of the work permit to travel to Mauritius. Beyond that date, work permits are cancelled and companies are required to submit fresh application.
- ▶ Companies should ensure that at the time of submission for applications for work permit, the passport copies of expatriates should have at least six months of validity.
- ▶ For certain grades, employers may be required, within 3 months from the date of issue of work permit, to appoint a suitable local counterpart to be trained by the expatriate
- ▶ Work permits are normally granted where a ratio of three local to one expatriate worker is satisfied. In the Textile Manufacturing Sector and as well as for Bakery Operators, the ratio is 1:1 that is one local worker to one expatriate.

- ▶ Provision of air tickets to come to Mauritius is not mandatory for employers in the employment contract. However, the provision of a return ticket home by the employer is mandatory as per the contract of employment as follows:

AIR TICKET/ REPATRIATION



- (i) The repatriation cost of the worker from their place of work to his/her original exit point in his /her country of origin shall be borne by the employer under the following circumstances:
 - (a) upon completion of this contract of employment;
 - (b) Termination of this contract of employment by the employer other than non-compliance of the terms and conditions of this contract of employment by the worker; or
 - (c) Termination of this contract of employment due to non-compliance of the terms and conditions of this contract of employment by the employer.
- (ii) The worker shall be responsible to bear related expenses under the Mauritian Laws and expenses relating to repatriation for the circumstances that are not mentioned in the above clause.

- ▶ Companies should submit applications for renewal of work permits in respect of their workers 3 months prior to the expiry of their current work permits. In case the company no longer employs the workers after expiry of their work permits, arrangements should be made within the shortest delay for them to be sent back to their country of origin;
- ▶ The recruitment of Bangladeshi workers should be done through licensed recruitment agencies authorised by the Bangladeshi authorities.
- ▶ Following an agreement signed between the People's Republic of China and the Government of Mauritius, the recruitment of Chinese workers should be done through recruitment agencies authorised by the Chinese authorities.
- ▶ Occupation permits are granted to high-skilled migrants and over half go to French and South African migrants, Recent reforms are designed to create a more conducive environment to attract foreign talent i.e, (a) a more family-friendly

system by allowing spouses of OP holders to work without a separate permit and OP holders to bring in their dependent parents, (b) retention of foreign talent by extending the OP duration from 3 to 10 years and extending the Permanent Residence Permit from 10 to 12 years; (c) bringing into the labour market foreign talent with a residence permit by allowing them to work without a separate work permit.

According to IOM (2018: 2), migrants holding a work permit cannot freely access the labour market or switch employers. Neither can they seek permanent residence or bring their families to Mauritius. Migrant workers must also leave the country after a maximum of four years continuous employment, with the exception of the eight-year period for manufacturing and construction. The Non-Citizens (Employment Restriction) Act has recently been amended to introduce two new permits:

- ▶ a special permit for victims of human trafficking issued to enable a presumed victim to continue to work in Mauritius; and
- ▶ a provisional permit pending the renewal of work permits.

The Ministry has also streamlined procedures and expedited the processing of work permit applications for export-oriented enterprises.

5. LABOUR MARKET INSTITUTIONS

5.1 National Tripartite Council

The National Tripartite Council has been established under Section 98A of the Employment Relations (Amendment) Act 2019 with a view to promoting social dialogue and consensus building on labour, industrial relations or socio-economic issues of national importance and other related and industrial relations issues.

The Council is also mandated to make recommendations to the Government on labour, industrial relations, health, and safety issues at the national and international level, particularly with the International Labour Organisation, the African Union and the Southern African Development Community.

Composition of Council

The Council is presided by the Minister who shall be the Chairperson and consists of:

- a. 2 vice-chairpersons, to be appointed by the Minister;
- b. a representative of the Ministry;
- c. a representative of the Ministry responsible for the subject of agriculture;
- d. a representative of the Ministry responsible for the subject of business;
- e. a representative of the Ministry responsible for the subject of civil service;
- f. a representative of the Ministry responsible for the subject of finance;
- g. a representative of the Ministry responsible for the subject of industry;
- h. a representative of the Ministry responsible for the subject of tourism;
- i. a representative of the Ministry responsible for the subject of human resources;
- j. 7 members representing organisations of employers, to be appointed by the Minister after consultation with the most representative organisations of employers;
- k. 7 members representing organisations of workers, to be appointed by the Minister after consultation with the most representative organisations of workers;
- l. one academic and one professional having wide knowledge in the field of labour market, industrial relations or economy, to be appointed by the Minister.

5.2 Ministry of Labour, Human Resource Development and Training

The Ministry has a Labour & Industrial Relations Department with various sections, as follows:

Inspection and Enforcement Section

- ▶ Responsible for the application of all labour legislation that regulates payment of remuneration and conditions of employment by carrying out regular inspections at places of work.
- ▶ Register complaints of rights and look for settlement.
- ▶ Process application for Workfare Programme.
- ▶ Implementation of the Workmen's Compensation Ordinance in sectors where the National Pensions Act does not apply.
- ▶ Tender advice to workers and employers and their respective organizations to understand their rights and obligations and to improve the labour relationship existing between them.
- ▶ Initiate civil and criminal proceedings on behalf of workers against employers who infringe individual employment rights.

In an email communication from the Director, National Employment Department (NED) Ministry of Labour, Human Resource Development and Training, the following was noted:

Work Permit Inspections are carried out by Officers of the NED:

- ▶ To ensure compliance with the Non-Citizens (Employment Restriction) Act 1973.
- ▶ To seek detailed information on the companies applying for a Work Permit (new & renewal) as to why they are having recourse to foreign labour.
- ▶ To assess the progress of the local counterpart understudying the expatriate.
- ▶ To obtain information as regards complaints made against companies employing expatriates.
- ▶ The fines and penalties for the illegal employment of non-citizens have been increased from Rs 50,000 to RS 500,000 and from 2 years to 5 years

Conciliation & Mediation Section

The Conciliation and Mediation Section of the Ministry which provides a conciliation and mediation service for labour disputes not yet reported to the Commission for Conciliation and Mediation. Section 64 of the Employment Relations Act provides that no labour dispute shall be reported to the Commission for Conciliation and Mediation except after meaningful negotiations have taken place between the parties for a

period not exceeding 90 days from the start of negotiations or such longer period agreed in writing between the parties. During the period of negotiations any party may, not later than 20 days before the expiry of the period of 90 days or such longer period as may be agreed between the parties, seek the assistance of the Conciliation and Mediation Section with a view to reaching an agreement. In case an agreement is reached, it has the effect of a collective agreement which binds the parties. Where no agreement is reached, the Conciliation and Mediation Section may advise the parties to jointly refer the dispute to the Employment Relations Tribunal or to an arbitrator appointed by them for voluntary arbitration.

Research, Legislation and Labour Standards Section

(a) Legislation Section

Responsible for the formulation of labour legislation, maintaining a record of labour laws and enactment and giving technical advice on labour legal matters.

(b) ILO Section

Responsible for International Labour matters and the processing of labour standards and resolutions adopted at International Labour Conference. The ILO Section also prepares annual reports on ratified and unratified Conventions and the tabling of labour instruments adopted at International Labour Conferences in the National Assembly.

Information, Education and Communication Section

- ▶ Engages in the preparation, organization and implementation of courses, seminars, workshops and talks for the benefit of workers in general, middle management and managers for sensitization to the world of work.
- ▶ Carries out a preventive work in creating a better understanding between workers and employers for promoting harmonious industrial relations and creating among workers the awareness of their rights and responsibilities.
- ▶ Contributes to foster a better understanding among the social partners.

Labour inspection is the responsibility of the Ministry and charged with enforcement of the Act under the office of the Permanent Secretary. The Permanent Secretary has a wide range of entry, access and search powers. Workers may also make complaints on any matters arising out of employment for investigation by the Permanent Secretary. Where non-compliance is found, a compliance order may be issued. The employer has seven days to challenge a compliance order in Court, failing which compliance is required within 14 days. Where there is reason to believe, an offence may have

been committed, the Permanent Secretary may issue summons and investigate the matter. Inspection services are protected from obstruction.

5.3 Special Migrant Workers Unit (SMWU)

With a view to ensuring that terms and conditions of employment of migrant workers are not less favourable than those prescribed by law to those of local counterparts, a Special Migrant Workers Unit was set up since 1999. The SMWU has 9 Officers who conduct regular inspections at workplaces employing migrant workers and monitor their employment. The basic aim of the SMWU is to ensure that migrant workers are employed on terms and conditions of employment similar to those of their local counterpart. The unit is also responsible to ensure that migrant workers enjoy their fundamental rights, such as freedom of association, as guaranteed by Article 13 of our Constitution and encapsulated at Section 29 of the Employment Relations Act (EReA). The SMWU is responsible:

- ▶ verifying and vetting of the contracts of employment of migrant workers, prior to issuing them a work permit and their arrival in Mauritius;
- ▶ carrying out of routine inspections and follow up visits at the workplace at regular intervals to see to it that terms and conditions of employment as per their vetted contract of employment are being strictly complied with;
- ▶ verifying that migrant workers are fully conversant with terms and conditions of their vetted contract of employment;
- ▶ guaranteeing them the right to assemble freely and associate with other persons, in particular to form or to belong to trade unions or other associations for the protection of one's interests;
- ▶ verifying that there exists an efficient means of communication at the level of the enterprise where their grievances may be discussed and settled as appropriate;
- ▶ sensitizing them during the course of inspections on their rights at the work place and responsibilities, on their fundamental rights, including their rights of association as well as through the distribution of pamphlets thereon;and
- ▶ registering their complaints regarding breach of provisions of legislation or any terms and conditions of employment of their vetted contract of employment or any other issues regarding their conditions of work in Mauritius.
- ▶ Migrant workers are entitled to the national minimum wage which has been effective since 1 January 2018;

- ▶ The migrant workers are all employed on determinate contracts of employment. The SMWU ascertains that all dues are paid to them prior to their departure and that they are provided with a return air ticket paid by the employer;
- ▶ Emphasis is laid during inspections to detect, deter and curb any cases of trafficking in persons through joint inspections with officers of the Occupational Safety and Health Inspectorate, the Employment Division and the Passport and Immigration Office;
- ▶ During such inspections, officers also ascertain that the Passports of migrant workers are not withheld by the employers. Any case of non-compliance on this issue is referred to the Commissioner of Police for appropriate action;
- ▶ The Occupational, Safety and Health Division (OSHD) of the Ministry is responsible, for the issue of Lodging and Accommodation Permit (LAP) with respect to dormitories of migrant workers in line with health and safety provisions. Officers of the OSHD carry out inspections at proposed lodging accommodation to ensure that employers comply with the provisions of the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011;
- ▶ Joint visits are also carried out by officers of the OSHD with officers of the Ministry of Health and Quality of Life whenever complaints are received as regards to poor living and unsanitary conditions. Prompt and appropriate actions are taken and defaulting employers are requested to remedy the situation pending criminal actions;
- ▶ Follow-up visits are also carried out at Employers' lodging accommodation which have been issued with Lodging Accommodation Permits, with a view to ensuring that the standard as set out by the legal provisions of the Occupational Safety and Health are complied with. In case of non-compliance the employers are prosecuted before the Industrial Court.
- ▶ Officers of the SMWU ensure that all dues are paid to the migrant workers before they depart from the country.

6. RATIFICATION OF INTERNATIONAL INSTRUMENTS

6.1 ILO Conventions

Mauritius has ratified 52 ILO Conventions (which represents the highest number of ratifications in the SAC region), of which 38 are in force.⁹ With regard to labour migration, the following Conventions that have been ratified are of particular interest:

► **Table 7: Conventions Relating to Labour Migration Ratified by Mauritius**

	Convention No	Title	Date of ratification
Fundamental Conventions	C029	Forced Labour Convention, 1930 (No. 29)	02 Dec 1969
	C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	01 Apr 2005
	C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	02 Dec 1969
	C100	Equal Remuneration Convention, 1951 (No. 100)	18 Dec 2002
	C105	Abolition of Forced Labour Convention, 1957 (No. 105)	02 Dec 1969
	C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	18 Dec 2002
	C138	Minimum Age Convention, 1973 (No. 138)	30 Jul 1990
	C155	Occupational Safety and Health Convention, 1981 (No. 155)	25 Jul 2014
	C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	08 Jun 2000
	C187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)	19 Nov 2012
Governance Conventions	C81	Labour Inspection Convention, 1947 (No. 81)	02 Dec 1969
	C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	14 Jun 1994
Technical Conventions	CO97	Migration for Employment Convention (revised), 1949 (No. 97) (excluding the provisions of Annexes I to III)	02 Dec 1969
	C189	Domestic Workers Convention, 2011 (No. 189)	13 Sep 2012
	C190	Convention, 2019 (No. 190)	01 Jul 2021 (will come into force on 01 July 2022)

9 A full list of ILO conventions ratified by Mauritius is available at https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:2837965442604:::P11200_INSTRUMENT_SORT:4

Mauritius has not ratified the second ILO convention that is specifically related to labour migration; namely the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143). The Private Employment Agencies Convention, 1997 (No. 181), which is of particular significance with regard to the recruitment and employment of migrant workers, has also not been ratified by Mauritius.

6.2 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Mauritius has not ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The official position is that Mauritius is unable to allow family reunification or permit migrants to arrive to the country accompanied by family members (a basic requirement of signatories) and the Convention is inconsistent with domestic legislation which makes no provision for family members to accompany migrants. Sookrajowa and Joson (2018) of the University of Mauritius cite other reasons including what they view as an absence of political will, the reputed costs of providing social services to family members, and negative public attitudes towards migrants.

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

In August 2021, Mauritius submitted a detailed National Voluntary Review to the UN of its progress in the implementation of each of the GCM goals (Republic of Mauritius, 2021).

7. BILATERAL LABOUR MIGRATION AGREEMENTS (BLMAS)

Mauritius has signed Memoranda of Understanding with some countries, while others are under study. MOUs have been signed with the following countries:

- ▶ Government of the United Arab Emirates
- ▶ Government of the Republic of Seychelles
- ▶ Government of Nepal

Agreements have also been signed with the following countries:

- ▶ Agreement between Government of Mauritius and the state of Qatar;
- ▶ Agreement between Government of Mauritius and the Peoples' Republic of China;
- ▶ Declaration Conjointe between the Ministry of Labour, Human Resource Development and Training (Mauritius) and Ministry of Labour (Italy).

MOUs that are in the pipeline/under processing include:

- ▶ Madagascar
- ▶ India
- ▶ Bangladesh
- ▶ Lesotho

8. FAIR RECRUITMENT OF MIGRANT WORKERS

The recruitment of migrant workers is governed by the Recruitment of Workers Act 39 of 1993. The following is a summary of the main provisions of this Act:

1. Licences

1. No person shall on behalf of an employer recruit a worker unless they:
 - a. hold a licence; and
 - b. have furnished security under subsection (7).
2. Subsection (1) shall not apply where a worker is recruited by the employer directly.
3. Any person who wishes to obtain a licence shall make a written application to the Licensing authority in such manner as may be prescribed.
4. The licensing authority may, on receipt of an application, request the applicant to furnish such particulars as he may require for the purpose of determining whether the licence ought to be granted.
5. Where the licensing authority is satisfied that a licence may be issued, he shall issue the licence in the prescribed form, on such terms and conditions as he thinks fit and on payment of the prescribed fee.
6. A licence –
 - a. shall be valid for a period of two years;
 - b. may be renewed on payment of the prescribed fee; and
 - c. shall not be transferable.

2. Persons who may be recruited

1. No person shall be recruited unless –
 - a. he has attained the age of 18; and
 - b. he has given his consent to the recruitment.
2. Except with the Minister's approval, no person shall be recruited for employment abroad unless he produces a certificate from the Director of Public Prosecutions attesting that he has not been convicted of any crime or misdemeanour over the past 10 years.
3. In considering whether approval should be granted or not, the Minister shall have regard, inter alia, to the –
 - a. nature of any offence of which the worker has been convicted; and
 - b. time which has elapsed since the commission of any such offence.

3. Duties of licensees

1. No licensee shall recruit a worker unless he is in presence of a written request by an employer for the recruitment.
2. In the case of recruitment for employment abroad, the licensee shall be responsible for the –
 - a. medical examination of every recruited worker before he leaves Mauritius;
 - b. obtention of entry certificates and other documents and the completion of all formalities in respect of every recruited worker;
 - c. cost of the onward journey of the recruited worker to the place of work;
 - d. return, including the cost thereof, of the recruited worker –
 - i. where his services are no longer required;
 - ii. at the expiry of his contract of employment;
 - iii. where he has been seriously injured at work or he is or is found unfit on grounds of ill-health or inefficiency to perform the duties under his contract of employment; or
 - iv. where there is a state of war in the country of employment;
 - e. return, including the cost thereof, of the dead body of a recruited worker who dies whilst in employment abroad, unless otherwise advised by his next of kin.
3. Every licensee shall furnish to the licensing authority particulars of any vacancy abroad in respect of which he proposes to recruit a worker.

4. Expenses

All expenses incurred in connection with the recruitment of a worker shall be borne by the employer or the licensee.

5. Contracts of employment

1. Every contract of employment entered into by an employer and a recruited worker shall contain such terms and conditions as may be prescribed.
2. A licensee shall, before a recruited worker leaves Mauritius, submit to the licensing authority a copy of the contract of employment signed by the employer and the recruited worker.
3. A licensee shall notify the licensing authority of any change in the terms and conditions of the contract referred to in subsection (2) within 15 days of any such change being brought to his notice.

6. Particulars of Recruited Workers

A licensee shall submit to the licensing authority the name and address in Mauritius of the nearest relative of every recruited worker within 7 days of the worker's departure from Mauritius.

It is apparent that the Act was designed primarily to ensure the protection of Mauritian citizens recruited for the purpose of employment as migrant workers in other countries. It is unclear whether and the extent to which the Act applies to migrant workers recruited for employment in Mauritius. However, Republic of Mauritius (2021a) notes the following:

- ▶ Fair and ethical recruitment are facilitated through bilateral agreements and MOUs as well as through recruitment agencies in Mauritius holding a valid recruitment licence;
- ▶ Any person who employs a non-citizen without the appropriate permit is liable to sanctions under the Act
- ▶ Since January 2018, a National Minimum Wage is payable to all full time employees of Rs 9,375 in export-oriented enterprises and Rs 10,075 for non-export enterprises
- ▶ Inspections of recruitment agencies are carried out by the Ministry to ensure compliance with the Act.
- ▶ The Special Migrant Workers Unit is mandated to provide services to migrant workers such as vetting of contract and dealing with complaints
- ▶ Mauritius has developed a 'Know Your Rights: A Guide for Migrant Workers in Mauritius' pamphlet in several languages (Republic of Mauritius, 2019).

In an email communication received from the Director, National Employment Department (NED) Ministry of Labour, Human Resource Development and Training, the following is noted:

Inspections are carried out at the Recruitment agencies by Officers of the NED to:

- ▶ ensure that Recruitment Agencies are complying with the Recruitment of Workers Act 1993 through monthly monitoring
- ▶ check office facilities and accessibility and whether the office is conducive for the recruitment activities
- ▶ verify the profile of the agencies and their employees
- ▶ ensure that quarterly returns are being submitted within the prescribed delay
- ▶ carry out investigations and submit reports

9. SKILLS RECOGNITION OF MIGRANT WORKERS

The Mauritius Qualifications Authority has the mandate to develop, implement and maintain the National Qualifications Framework of Mauritius. As part of the development of a SADC Qualifications Framework, Mauritius agreed to align its NQF with that of the SADCQF with a view to enhance the recognition and portability of local qualifications.

A report published in 2019 notes that there is a 'clear and demonstrable link' between the Mauritius NQF and the SADC RQF. Technically this means that when all Member States have aligned their National Qualifications Frameworks with the SADC RQF, it will result in

- ▶ Providing a mechanism for comparability and recognition of qualifications in SADC,
- ▶ Facilitating mutual recognition of qualifications in all Member States,
- ▶ Harmonising qualifications wherever possible,
- ▶ Promoting the transfer of credits within and among Member States and even beyond, and
- ▶ Creating a SADC regional standards where appropriate.

10. SOCIAL PROTECTION OF MIGRANT WORKERS

According to the Republic of Mauritius (2019: 2), non-citizens may access most health-care services for free, including treatment for chronic conditions. They are also eligible to participate in the national social insurance scheme which entitles them to a disability, retirement or survivor pension. Migrants can also contribute to the national pensions scheme from the first day of employment (or after two years employment in export-oriented industries).

Migrants are also required to contribute to the National Savings Fund which entitles them to a lump sum payment on retirement or on leaving Mauritius. The Government has also signalled its commitment to establishing mechanisms for the portability of social security entitlements (Republic of Mauritius, 2019: 20) and is participating in the Southern Africa Migration Management project/ILO exercise supporting the piloting of the SADC Guidelines on the Portability of Social Security Benefits for Migrant Workers through the formulation and implementation of Action Plans.

REFERENCES

Bank of Mauritius (2021). Monthly Statistical Bulletin: December 2021. <https://www.bom.mu/publications-statistics/monthly-statistical-bulletin>

Economic Development Board (2021). "About the Mauritius Diaspora Scheme." At: <http://www.diaspora.mu/Default.aspx>

GFMD (2012). "Sixth Meeting of the Global Forum on Migration and Development: Enhancing the Human Development of Migrants and Their Contribution to the Development of Communities and States." Port Louis, Mauritius, 19-22 November 2012.

IOM (2013). Migration in Mauritius: A Country Profile (Geneva: IOM).

IOM (2016). "Migration Governance Snapshot: The Republic of Mauritius." At: <https://www.migrationdataportal.org/sites/g/files/tmzbdl251/files/2018-07/Migration%20Governance%20Snapshot-%20The%20Republic%20of%20Mauritius.pdf>

IOM (2021). Pilot Mapping and Profiling of the Mauritian Diaspora in Australia, Canada and United Kingdom: Stories of Belonging, Impact and Opportunity (Geneva: IOM).

Kothari, U. (2013). "Geographies and Histories of Unfreedom: Indentured Labourers and Contract Workers in Mauritius." *Journal of Development Studies* 49(8): 1042-1057.

Lincoln, D. (2006). "Beyond the Plantation: Mauritius in the Global Division of Labour." *Journal of Modern African Studies* 44(1): 59-78

Lincoln, D. (2009). "Labour Migration in the Global Division of Labour: Migrant Workers in Mauritius." *International Migration* 47(4): 129-156.

Lincoln, D. (2012). Migration and Development in Contemporary Mauritius. SAMP Migration Policy Brief No. 27, Cape Town.

MIEUX (2017). MIEUX Case Study: Mauritius 2017 (Vienna: ICMPD).

MLIRET (2016). "Guidelines for Work Permit Application, June 2016." Ministry of Labour, Industrial Relations, Employment and Training, Port Louis. At: <https://www.edbmauritius.org/sites/default/files/2020-09/UPDATED%20GUIDELINES%20FOR%20WORK%20PERMIT%20APPLICATION%20VERSION%205%20-%2010.06.2016.PDF>

Puygrenier, L. (2021). "Taxonomies at Work: Profit and Race in the Quest for the 'Best Worker' in Mauritius." *Journal of Ethnic and Migration Studies* (online).

Ramtohul, R. (2016). "'High Net Worth' Migration in Mauritius: A Critical Analysis." *Migration Letters* 10(1).

Republic of Mauritius (2004). Code of Conduct for Human Resource Management Practices in Relation to Migrant Workers (Port Louis: Ministry of Labour, Industrial Relations and Employment).

- Republic of Mauritius (2019). "Know Your Rights: A Guide for Migrant Workers in Mauritius." At: <https://labour.govmu.org/Documents/A%20GUIDE%20FOR%20MIGRANT%20WORKERS%202019.PDF>
- Republic of Mauritius (2019). "UN General Assembly Resolution A/RES/74/148 on the Protection of Migrants: Response of Government of Mauritius" At: <https://www.ohchr.org/Documents/Issues/Migration/GA76thSession/States/Mauritius.docx>
- Republic of Mauritius (2021a). National Voluntary Review: Implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM) (Port Louis, Mauritius).
- Republic of Mauritius (2021b). Statistical Data on Labour Market: October 2021. Employment Service Monthly Bulletin, Ministry of Labour, Human Resource Development and Training.
- Sookrajowa, S. and Joson, M. (2018). "An Analysis of the Challenges and Implications of the UN Migrant Workers Convention: The case of Mauritius." *Migration and Development* 7(2): 261-281.
- Statistics Mauritius (2020). Survey of Employment and Earnings in Large Establishments. At: https://statsmauritius.govmu.org/Pages/Statistics/ESI/Labour/SEE/SEE_Mar20.aspx
- Statistics Mauritius (2021). "Digest of Labour Statistics." At: https://statsmauritius.govmu.org/Pages/Statistics/By_Subject/Labour/SB_labour.aspx
- Suntoo, R. (2012). "Foreign Workers in Mauritius: The Case of Bangladeshi Migrants." *University of Mauritius Research Journal* 18: 23-44.
- Suntoo, R. and Chittoo, H.B. (2011) "Working and Living Conditions of Chinese Migrants in Mauritius." *Global Journal of Human-Social Science Research* 11(7).
- Varaden, S., Sandhu, M. and Tjiptono, F. (2020). "Migrant Workers and Corporate Social Responsibility: Workplace Practices in Mauritius." In L. Wood et al., *Industry and Higher Education* (Cham: Springer), pp. 207-228.
- YouTube (2016). "Mauritius: Circular Migration Project." At: <https://www.youtube.com/watch?v=zLm4siKhhIk>



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