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MIGRATION MANAGEMENT
PROJECT



Kingdom of Lesotho
Tripartite Dialogue on Labour Migration
Governance
13-15 June 2022
Mohale Lodge, Leribe, Lesotho

Dialogue Report



Opening Session

The Opening Session of the Dialogue was moderated by Chief Secretary in the Ministry of Labour Mr.

Remarks by the Honourable Minister in the Prime Minister's Office, Hon. Likopo Mahase, MP

Honourable Mahase (MP) highlighted that migration had become the defining feature of modern life, and its benefits ranged from; a) being an engine of economic growth, innovation and sustainable development b) allowing millions of people to seek opportunities within and across territorial borders each year, and, c) to strengthening bonds between communities, countries and societies. However, since it also posed risks such as being a source of divisions and conflicts within and between states and societies, thus leaving migrants vulnerable to abuse and exploitation, it is important that states individually and collectively minimize the adverse drivers that compel people to leave their places of habitual residence and countries of origin.

He noted that such drives included, but not limited to, climate change, environmental changes and COVID-19 pandemic, amongst others. These three drivers had a big impact on migration in Lesotho. The Office of the Prime Minister has a strategic responsibility to ensure that the entire government system functions as a well-coordinated, responsive and accountable unit in order to achieve national strategic objectives and key service delivery programmes. The Coordination and Oversight roles of the Office of the Prime Minister are therefore, critical in mitigating the drivers and effects of migration in Lesotho. Institutionally, the office of the Prime Minister established the Disaster Management Authority (DMA) with a mandate to coordinate disaster risk reduction (DRR) activities aimed at building resilience of Basotho from disaster effects.

Speech by the Honourable Minister of Labour and Employment- Honourable Selemo Mangobe (MP)

The Hon. Minister welcomed the tripartite-plus partners to the Dialogue and noted that the Dialogue was set to ensure to exchange ideas and opinions on how best labour and mixed migration management could be attained through safe, regular and orderly labour migration, in a well-coordinated approach. The Minister noted that Lesotho aligned itself with the international and regional obligations in addressing migration aspects in the country. He went on to highlight that the country relies on labour migration, which consists of over 10 percent of the population and remittances which are over 17 percent of the Gross Domestic Product (GDP).

Due to this migration had become an important topic as a core development consideration for Lesotho. The country had prioritized the following areas: diaspora engagement, labour migration, migration data, border management, human trafficking, and internal migration. The Minister noted that, migration was a multi-dimensional reality for development, which required coherent



and comprehensive responses including political, social and economic policy considerations. In order to ensure that migration contributes to development, the Minister noted that all stakeholders must be engaged. Continuous dialogue and awareness-raising were some of the strategies that have to be used in order to roll out education to the public. The public has to be engaged on the role that migration plays in economic development.

Opening Remarks – Mr. Theo Sparreboom, Labour Migration Specialist, International Labour Organisation

Mr. Sparreboom noted that the country-level dialogues were organised within the framework of the Southern Africa Migration Management (SAMM) project that is financed by the European Union. This four-year project (2020-2023) is designed to improve migration management in the Southern Africa and Indian Ocean region. The SAMM Project is a UN Multi-Agency programme composed of the International Labour Organization (ILO), the International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC).

SAMM's overall objective is to improve migration management in the Southern Africa and Indian Ocean region. The project targets the 16 SADC Member States: Angola, Botswana, Comoros, Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.

He noted that the objective of this Tripartite Dialogue on Labour Migration Governance is to:

- i. Explain the SAMM project activities, learn about past and ongoing related work in the countries, and identify together with Member States', priorities that are demand driven and achievable, given the capacity of each country's human and financial resources.
- ii. Identify the focal points (names, email addresses and phone numbers) for each country that are responsible for the thematic areas of the project.
- iii. Put together a roadmap on the support that the SAMM project could provide under each of the thematic areas identified as priority.



A. Labour Migration

The GCM, the AU Revised Migration Policy Framework, the AU Free Movement of Persons Protocol, SADC's Protocol on the Facilitation of Movement of Persons and the SADC Labour Migration Policy Framework

Presentation: It was noted that the term international migrant worker refers to both international migrants and non-resident foreign persons who are employed or unemployed in the country of measurement. The ILO estimated that there were 169 million migrant workers in 2019, an increase by 5million from the 2017 estimate. The number of migrant workers in Africa increased from 9.5 million in 2010 to 14.5 million by 2019, and the average share of women migrant workers was 38 percent. The number of migrant workers in Lesotho is estimated at around 12,000 in 2020, with around 200,000 Basotho abroad.

The following were noted as the global and regional framework for evidence-based labour migration policy: (i) Agenda 2030 and the Social Development Goals; (ii) Global Compact for Safe, Orderly and Regular Migration (GCM) and Global Compact on Refugees; (iii) Migration Policy Framework for Africa and Plan of Action (2018-2030); and, (iv) SADC Labour Migration Policy Framework (2014) and Action Plan (2021-25).

It was noted that in 2018, Lesotho established a labour migration policy, and had requested the assistance of the SAMM Project in the development of its implementation of its labour migration policies action plan.

Progress in the Implementation of the National Labour Migration Policy

Presentation: It was noted that the Policy was adopted by Cabinet in September 2018. The purpose of the policy is to guide the country in its effort to manage labour migration issues with the intention to reduce poverty and inequalities, create employment, ensure decent conditions of work and to enhance the skills pool. To this end, its strategic objective is to promote labour migration governance that is in line with the international labour standards and good practices and ensure that it adheres to regional and continental frameworks. The Policy proposes three (3) key areas of intervention: - (a) Coordinated regulation and management of inter-ministerial labour migration activities; (b) Mainstreaming labour migration in other national policies; and, (c) Regular review of the policy and its national plan of action.



The following achievements were noted:

Achievement	Next Step
Draft guidelines on recruitment to curb recruitment malpractices and trafficking in persons	-Engage social partners and other key stakeholders for inputs and validation -Operationalize recruitment guidelines
Bilateral Labour Agreements Guidelines	Review the BLA Guidelines in line with AU Guidelines on developing BLAs
Basotho migrant workers have access to social protection i.e treatment of chronic diseases, payment of pensions and compensation benefits	-Expedite the establishment of a National Social Security Scheme to ensure coverage of migrant workers -Strengthen working relations with South African counterparts
Reforming the work permits system: - Automation of the work permits forms (2016-2021) - Conducted a study on scarce skills (pending validation)	Conduct validation workshop: - Document scarce skills based on the results of the study - Gazette scarce skills - Develop and operationalize work permits regulations
Conducted skills assessment which will inform the development of occupation in demand list (ODL). Next steps:	- Conduct validation workshop (June, 2022) *Publish ODL in September, 2022 *Operationalize the ODL -Training of Labour Inspectors, social partners and recruitment agencies on Human Trafficking, fair and ethical recruitment -Building capacity of Government officials and social partners on labour migration management -Dissemination of a national referral mechanism on identification of victims of trafficking in collaboration with Police, Home Affairs, Prosecution, Magistrates and civil society Organisations - Ongoing capacity building on migration data collection, analysis and interpretation - In collaboration with IOM, trained 200 returnees from South Africa – given startup equipment and capital (need to train more vulnerable Basotho, especially women and youth) - Mainstreaming of labour migration in key national strategic documents such NSDP II, Decent Work Country Programme III.



In terms of Gaps and Challenges, the following was highlighted:

Gaps and Challenges	Interventions
Weak migrants liaison structure	Restructure the Ministry of Labour and Employment to ensure that there is effective and efficient labour migration governance structure
Poor coordination of labour migration governance	<ul style="list-style-type: none"> • Develop and enact labour migration law • Include labour migration agenda in the business of statutory bodies (NACOLA, NACOSH etc) • Development and maintenance of labour migration database • Capacitate Migrants Liaison Unit so that it performs the coordinating role • Finalize MOU with Mauritius • Review MOU between Lesotho and South Africa • Deployment of Labour Attaches to provide protection services to Basotho migrants • Improve communication and integration between migrant workers and local workers • Ratification of ILS (i.e. C97 and C143)
Absence of return and reintegration strategy	Development and operationalization of a return and reintegration programme for Basotho migrant workers to promote their participation in the economy
Weak bargaining capacity and strategic approach	Capacitate MOLE officers to negotiate bilateral agreements
Lack of resources (finances, HR) in the Technical Ministries	<ul style="list-style-type: none"> • Improve on resource mobilization • Capacitate Government officers in resource mobilization strategies • Increase human resources that deal with migration issues
Absence of recruitment guidelines	Finalize the draft recruitment guidelines and operationalize them
Low law enforcement	Design and execute labour migration training program for labour inspectors, immigration officers,
Absence of labour provisions in trade, investment and humanitarian agreements	Active involvement of the Ministry of Labour and Employment in the negotiations
Poor implementation of the Policy	<ul style="list-style-type: none"> • Improved oversight and guidance • Engagement of social partners and other actors

Main discussion points:

The following issues were discussed:



- The ratification of conventions was key in ensuring that a level playing field was developed for the employment rights and conditions of migrant workers and national workers;
- It was noted that the proposal to ratify Conventions can be done by all social partners and is not limited to the government only; and,
- The auditing of the work of private employment agencies and review of contracts before the departure of migrant workers from Lesotho.

Recommendations: There is need to-

- Undertake training for all ministries working on labour migration to understand all the facets of labour migration and how to protect the rights of migrant workers, while advocating for safe, fair and regular labour migration; and,
- Ensure that the outcomes from this Dialogue are also directed to NACOLA for further discussions and implementation.

Social Dialogue-The Migration Liaison Unit in Lesotho

Presentation: The Migrant Liaison Unit is the technical arm of the Labour and Employment ministry in charge of most of the technical aspects pertaining to labour migration management and governance with more focus on emigration. The activities of Migrant Liaison are guided mainly by Labour Code Order No. 24 of 1992 Part X and Part XI (Section 138-164). The other frameworks that guide labour migration issues include the National Labour Migration Policy (2019), the Bilateral Labour Agreement Negotiating Framework (2019), the Deferred Pay Act (2009) and other related frameworks.

The main role that the Unit plays relates to coordination of labour migration issues; safeguarding the welfare of Basotho migrant workers in foreign countries; and reviewing of bilateral labour agreements and negotiation of Bilateral Labour Migration Agreements and Memorandum of Understanding. The Unit has been responsible for the preparation of joint bilateral commissions; licensing and monitoring of recruitment agencies; vetting of contracts; inspection; sensitization of job seekers, migrant workers; education on human trafficking and identification of victims of trafficking; and, assisting the return, reintegration and rehabilitation of returned migrant workers-livelihood programmes, among other services.

The following challenges were noted: (i) there have not been adequate strategies in place to deal with the consequences of labour migration such as retrenchments and reabsorbing of returning migrant workers; (ii) a general misunderstanding and lack of understanding of what governance of labour migration entails within the Ministry itself; (iii) labour migration issues have not really received the desired attention in social dialogue forums such as the National Advisory committee on Labour; and, (iv) the absence of labour attaches to RSA.

The following recommendations were highlighted during the presentation:



- ✓ Improve the institutional framework by strengthening labour migration administration;
- ✓ Strengthening the capacity Labour Migration Unit by providing sufficient human and financial resources;
- ✓ Set up a working team or a labour migration committee;
- ✓ Develop Labour Migration Legislation and Ratification of Conventions 97 and 143;
- ✓ Promote ethical recruitment- set up 3 dedicated units to deal with pre- departure training, contract vetting and registration, licensing regulation and training of private employment agencies.
- ✓ Effective support and complaints;
- ✓ Strengthening social protection of migrant workers; and,
- ✓ Professionalise assistance with unclaimed benefits and the portability of pension rights for former migrant workers.

Main discussion points:

The following issues were discussed:

- The number of people in the Unit- it was noted that the Unit is manned by only four people;
- Speeding up the work of the Tshiamiso Trust – there is work on these issues, and the government through the Office of the Prime Minister is working on ensuring that compensations to ex-mine workers is expedient; and,
- OSHE issues in the mining sector- there are national structures which have seen the development of a national policy which is now being operationalised through development of legislation and action plan.

Recommendations: There is need to-

- Develop capacities for personnel in the Migration Unit; and,
- Provide funding for the Ministry and the unit to undertake its work.

An Overview of Labour Administration and Labour Migration

Presentation: It was noted that establishment of the ILO in 1919 led to evolution of a national system of labour administration and enhanced position of Ministries of Labour. The 1973 Meeting of Experts on Labour Administration recommended adoption of a standard on labour administration in order to: (a) Protect the weak systems of labour administration; (b) Avoid their marginalization in national decision making on social and economic policy; and, (c) Fill the gap in the standards setting system to enable it deal with labour administration holistically. In 1978, the ILC adopted Labour Administration Convention, 1978 (No. 150) and Recommendation No. 158 to provide for an institutional framework for the development, implementation, coordination and review of a national labour policy.

Labour administration covers all public administration activities in the field of national labour policies, thus, all activities undertaken by public administration bodies to assist governments in



the elaboration, implementation, control and evaluation of labour policy. System of labour administration include public administration bodies engaged in labour administration and any framework for the coordination of their activities and for the consultation and participation of employers, workers and their organizations. It was highlighted that the functions and responsibilities of a system of labour administration *must be properly coordinated* in order to achieve common goals. Coordination can be within the Ministry of Labour (Departments / Units at headquarters, and headquarters and field offices), between various ministries, agencies, territories / countries.

In terms of the role of social dialogue, it was noted that Article 7 of Convention No. 143: representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention. ILO C143 and Rec 151 require consultation of social partners. Convention No. 97 and Recommendation No. 86 require consultation with the appropriate organizations of employers and workers on: – all general questions concerning migration for employment; and – the operations of recruitment, introduction and placing of migrants for employment.

For labour administration and labour migration to be effective, it must be: (i) Adequately resources – staffing and budget; (ii) Staffed with human resources with technical capacity; (iii) Vested with legal power to perform its functions; and, (iv) Proper coordination.

Main discussion points:

- ✓ On vesting the Unit with legal powers to undertake its functions- it was noted that there was a decision to have a legislation that is dedicated to public employment services so that it can be vested with legal power as advised, and allowing the Unit to undertake its functions;
- ✓ It was noted that the Ministry of Labour tend to be under-resourced and given a back-foot, this has seen the Ministries failing to undertake their responsibilities, hence a political decision has to be made in ensuring the resourcing of the ministries of labour.
- ✓ There was worry that the Ministry of Labour was shrinking and had limited recognition, yet it was a critical ministry in the development of the labour market and national development. Therefore, there was need to upgrade the ministry to high levels and ensure it was well resourced to undertake its work.

Recommendations: There is need to-

- ensure that the LMU is effective and efficient in its work, this will ensure that it is able to attract/pull resources for its functions; and,
- provide the required technical know-how to the personnel in the Unit

Key Priority Area 2. Labour Migration Statistics



Presentation: In terms of statistics it was noted that the Kingdom has a total of 202,000 Basotho abroad, of which 95 percent are in South Africa. According to the 2019 LFS, there were 16,000 labour migrants in Lesotho. Most international migrants were in elementary occupations.

Under the SAMM Initiatives, it was noted that SADC was developing a Labour Market Observatory (LMO) a mechanism for the collection, consolidation, storage and management of regional labour market information from Member States, including information on labour migration and skills. The aims of the LMO were to: (i) harmonize labour market statistical regimes across Member States; and, (ii) ensure aggregation and the availability of up-to-date and comparable labour market information, based on international statistical standards. The following challenges were noted, most countries still only have limited data availability, and not all countries have the same priorities in terms of reporting on labour migration trends/indicators. It was noted that the SAMM Project was providing support this process, through:

- Capacity-development for data producers and data users;
- Support to data collection activities (statistics as well as administrative data); and,
- Strengthening regional collaboration and exchange.

In terms of way forward, the following was noted as key:

- ✓ Harmonizing labour migration statistics
- ✓ Strengthening collection and analysis of data
- ✓ SAMM Stocktaking report
- ✓ Investment of the National Coordination Committee in labour market information system.

Main discussion points: the following were noted, the need to -

- harmonise the data collection system within Government, Private Agencies and the international organizations;
- recognize all stakeholders collecting data, and the consolidation into one, the need of one joint labour migration committee
- improve the collection of data from the informal crossings and informal sectors
- include a module on labour migration in all the census. Stressed the importance of Labour Migrations statistics in informing policy.

Recommendations: In terms of the way forward it was note that the following will need to be implemented:

- a. Harmonizing labour migration statistics
 - ✓ Strengthening labour market and labour migration data collection at national levels, in collaboration with other SAMM stakeholders and ILO Technical Units
 - ✓ Technical support and capacity building to harmonizing statistical indicators with international statistical standards
- b. Strengthening collection and analysis of data
 - ✓ Supporting integration of up-to-date migration modules in upcoming surveys (LFS, Census, NHIES, Financial Inclusion)?



- ✓ Strengthening administrative data collection practices, such as through recruitment of workers.
- ✓ Technical support to analyzing existing data and data sources.
- c. SAMM Stocktaking Report
 - ✓ Collect data on incoming migrant workers flows through mapping of skills, qualifications to ensure better job matching;
 - ✓ Conduct a mapping of diaspora communities and develop a related database;
 - ✓ Establish joint structure responsible for the regular processing and analysis of labour migration data (administrative and statistics) for policy decision and evaluation;
 - ✓ Establish an information system providing information on wages, conditions of employment/contracts, benefits, etc.
- d. National Coordination Committee
 - ✓ Invest in a labour market information system
 - ✓ Collection and exchange of labour market and migration data utilising standardised templates and protocols;
 - ✓ Address labour migration data shortcomings through enhanced data collection, analysis and availability, including on Basotho abroad.

Key Priority Area 3. Bilateral Labour Migration Agreements

Presentation: Bilateral labour agreement were defined as a cooperation agreement between origin and destination countries establishing the specific responsibilities of, and actions to be taken by each of the parties, with a view to accomplishing its goals. BLAs create legally binding rights and obligations and are more action-oriented. Whereas, Memorandum of Understanding, were noted to be a less formal instrument entailing general principles of cooperation. The MOU describes broad concepts of mutual understanding, goals and plans shared by the parties. They are softer, non-binding instruments. Other types of bilateral arrangements, were noted as Framework agreement, Inter-agency understanding, Protocols, Statement of mutual cooperation, Trainee scheme, Cross-border worker agreements, among others.

The objectives of bilateral labour migration agreements are to manage the process of meeting labour market needs quickly and efficiently especially the sectors in which they are severe labour shortages. They may also be useful in supporting broader regional, commercial and economic relations by aiding the development of the country of origin and facilitating its regional integration. They also strengthen ties between countries that share culturally or historical links. BLMAs prevent and reduce irregular migration by offering alternative regular channels to migrate for employment. They also act as regularisation agreements that might be worked out with countries of origin.

Main discussion points: the Dialogue discussions noted that:



- There was need to review the BLMAs that Lesotho has entered to ensure that they are in line with the AU BLMAs Guidelines and address the rights of migrant workers towards the achieving decent work;
- Lesotho should continue the process of ratifying Convention No.143, No.97 and No. 181;
- There is need to get support in the re/structuring and packaging on BLMA's. To improve the he potential of bilateral cooperation in the good governance of labour migration and contribution towards the protection of migrant workers; and,
- Bilateral agreements should speak to integrating migrants into the economy

Recommendations: the dialogue recommended the following-

- Capacity building for social partners of the development and content of BLMAs; and,
- Study to monitoring and evaluation mechanism of existing and past BLMAs. Review of existing BLMAs to ensure that they address the protection of migrant workers' rights and address the portability of social securities.

Key Priority Area 4. Social Protection for Migrant Workers

Presentation: the presentation covered the following key areas in relation to migration and social protection (i) Key arguments for extending social protection to migrant workers and their families; (ii) Legal and practical barriers, and other challenges; (iii) Policy options for the extension of social protection to migrant workers; (iv) Unilateral Measures; and, (v) SADC Guidelines on portability of social security benefits. It was noted that Social security is a basic human right that migrant workers, refugees and their families should enjoy throughout their life cycle. Yet, despite progress, 4.1 billion individuals worldwide do not have access to social protection, including migrant workers, refugees, and their families.

Key arguments for extending social protection to migrant workers and their families include, may: improve the general health of the public; help improve the demographic situation of a country as migrant workers are often net contributors to the social security system over their lifetime; facilitate employee mobility and attract highly skilled migrants workers for the proper functioning of labour markets; facilitate the formalization of the labour market as well as the regularization of migrant workers; fill labour shortages particularly in economies with ageing workforces and can contribute to the development and GDP growth of host and home countries; improve labour productivity; and, build stronger and financially healthier social security systems.

The legal and practical barriers (underlying causes) to non-access of social protection for migrant workers were noted as, the principle of territoriality (which looks at the scope of application of social security legislation is limited to the territory of the country where it was enacted) and the principle of nationality (which looks at the coverage and entitlement to benefits limited to nationals of a country)



SADC developed guidelines on the portability of social security benefits, addressing the obstacles faced by migrant workers. The ILO has been supporting participating countries, in particular the 5 piloting countries (Eswatini, Lesotho, Malawi, South Africa, Zimbabwe) and Botswana, Comoros, DRC, Madagascar, Mauritius and Seychelles in the development of Action Plans for the implementation of the SADC Guidelines.

Main discussion points: the dialogue noted that in Eswatini, there existence huge gaps in terms of access to social protection for migrant workers both as a host or destination country. It was highlighted that there were no mechanisms that existed that would ensure that workers employed by PEAs were accorded access to social security. The existing BLMAs and MoUs did not address issues of social protection and need to be review. The dialogue also noted that the access to social protection should not be attached to a migrant worker being an irregular or regular migrant, given that access is a human right.

Conclusions: it was noted that the following should be included in the NLMP:

- Coverage in line with national laws as well as international instruments;
- Access to healthcare;
- Portability of social protection benefits; and,
- Provisions from SDGs Target 1.3, 3.8, 5.4, 8.5, 8.8 and, 10.4.

Recommendations:

- Review our National Laws that exclude migrant workers on Social Protection Benefits;
- Develop BLMA's that will ensure portability of Social Protection Benefits for migrants abroad and within the country. The need for support from ILO and IOM in reviewing and developing new BLMAs;
- Ratification on the International Conventions for Social Protection C102;
- Consider the protection of migrants out of the country as well as those in the country and returnees; and,
- Develop mechanisms that would see social security benefits must be extended to migrants in both regular or irregular situation.

Key Priority Area 6. International Labour Standards on the protection of migrant workers

Presentation: The protection of migrant workers, has been a concern of the ILO from the beginning, hence the development of instruments that regulating labour migration and equal treatment of migrant workers. This has also seen the establishment of specific International Labour Standards or provisions applying to migrant workers. The instruments aim to address, "a dual problem"-migration of workers and the treatment of foreign workers.

It was noted that the Kingdom had not yet ratified the following convention on labour migration:

- Migration for Employment Convention (Revised), 1949 (No. 97);



- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and,
- Private Employment Agencies Convention, 1997 (No. 181).

Main discussion points: during the meeting the following issues were discussed:

- It was noted that in the context of the abrogation of the ILO C96, should the Kingdom of Eswatini, wait to ratify any other convention?
- Among the two labour migration convention, which one should the Kingdom ratify first?

In response to the above it was noted that the should look at ratifying the ILO C181, as this would allow the Kingdom to avoid and cover any legislative gaps during the process of the abrogation of the ILO C96. This would ensure that the Kingdom had legislation that ensured the regulation of the work of PEAs and the protection of migrant workers in the country.

On the choice between the ILO C97 and C143, it was noted that both are critical and should be ratified for the protection of migrant workers in and outside, by the country. But in the event that the country opted to only ratify one of them, the choice should be the ILO C143, due to the fact that it talks more to the reality of labour migration today.

Conclusions: the following were the conclusions noted by the Dialogue-

- All ILS are important for safeguarding the dignity and rights of migrants;
- Convention 97 and 143 applicable to Labour Migration; and,
- There is an urgent need of ratifying same and the process was already at an advanced stage.

Recommendations: the need for support to

- undertake gap analysis of current legislation visa vis ILS, to facilitate for the ratification and domestication of ILS that protect the rights of migrant workers.
- ratify and domesticate ILS that speak to labour migration (ILO C97, C143 and C181).
- develop and ensure that there is legislation on the functioning of PEAs, as most are not regulated in the country; and,
- in the event that the country does not want to ratify Conventions it was noted that social partners can undertake campaigns to promote the ratification of these instruments or in the year of their discussions at the ILC (promotional activities). Social partners can develop reports on the state of implementation of the instruments in the country, by submitting reports as observations to the ILC.

Key Priority Area 7. Skills Development and Labour Migration

Presentation 1-IOM: it was noted that Lesotho had undertaken a Skills Gap Analysis. The objectives of the analysis were to: (i) identify skills shortages and surpluses in key sectors/occupations in Lesotho; and (ii) propose appropriate mechanisms to address the identified



skills shortages and capitalize upon the skills surpluses in line with Lesotho's current needs and priorities, primarily from a labour migration perspective.

The findings were identified with regards to the labour markets:

- ✓ Develop the skills of Basotho with qualifications highly demanded by the labour market.
- ✓ According to the national development goals, scholarships on qualifications that are most sought-after and relevant to the country's needs should be considered and issued.
- ✓ Develop, capacitate and strengthen the key stakeholders, including professional bodies, councils, and boards, for effective assessment and evaluation of the credibility of foreign qualifications.
- ✓ Regulatory and Policy frameworks should be in place to make it mandatory for expatriates to transfer skills to Basotho.
- ✓ Other avenues, such as developing diaspora programmes that allow the Basotho diaspora to collaborate closely with the local institutions and sit on management boards to transfer skills and better practices, can be explored.

Presentation 2-ILO: it was highlighted that the link between labour migration and skill development, could be explored in the following manner; (i) the lack of employment opportunities in countries of origin, would see skilled people moving to other countries; (ii) there was underutilization of migrants' skills in countries of destination; and, (iii) there may exist be weak skills system and policies which does not allow for the recognition and utilisation of the skills in the country held or provided by migrant workers.

It was noted that there was need for policies, initiatives and frameworks that look at Skills Anticipation, Skills Recognition, Skills Partnership, and, Skills Development within the country and this was key in the nation moving progressively towards achieving decent work. The process of skills development should be tripartite and should have all the social partners fully and effectively participating in the process. The recognition of prior learning was also key in ensuring decent work for migrant workers.

It was highlighted that the key priorities for capacity building under the SADC Study on Skills Recognition were:

- ✓ Data gathering and analysis;
- ✓ High-level coordination with regard to skills development and migration systems;
- ✓ Qualification recognition for the purpose of employment systems for migrants with high levels of qualifications and skills need to be streamlined; and,
- ✓ There is a need for an understanding of how best to recognize the qualifications and skills of migrants with lower levels of skills e.g. need to provide job seeker support to migrants, RPL mechanisms, among others.

Presentation 3-: it was highlighted that Lesotho has a national qualifications framework called Lesotho Qualifications Framework (LQF). It is a regulatory framework for all qualifications in



the country, and Recognition of Prior Learning (RPL) is one of those policies. Both LQF and RPL are critical for recognition of skills of nationals and migrants.

It was highlighted that a qualifications framework is a bedrock for quality assurance, it is also a foundation on which all else is built in education. It provides basis for comparison with qualifications from other countries and gives confidence to nationals about education.

Recommendations: there is need to

- Review the structure of skills development and recognition in the country;
- Build capacities of government officials on how to effectively and efficiently review qualifications of migrant workers as they come into the country;
- Build data on the skills into South Africa from Lesotho and from Lesotho to South Africa and share between the two countries; and,
- Ensure all training institution have a RPL policy in place in line with the national policy.



LESOTHO - MOHALE DIALOGUE ROADMAP FOR 2022/23 STRATEGIC ACTIVITIES REQUIRING SUPPORT

Priority Area	Intervention	Outcome	Time-Frame	Support Required
Labour Migration Legislative and administrative framework	<p>Implementation of Labour Migration Policy</p> <p>Set up an interim labour migration working group to oversee implementation of the Mohale Tripartite Labour and mixed migration Dialogue roadmap.</p> <p>Conduct a study on the implications of the bilateral labour agreements/arrangements that Lesotho currently has with the RSA.</p> <p>Exhaust all outstanding compensation benefits due for Basotho migrant workers</p> <ul style="list-style-type: none"> Conduct a review of legislative provisions contained in the Labour Code and amend to align to the country’s international commitments through the involvement of NACOLA. Ratification of the SADC protocol on the Facilitation of Movements of Persons (2005) and the SADC Protocol on Employment and Labour (2014); Develop a specific labour migration legislation. Mapping of stakeholders for inclusion on implementation of the roadmap and define the roles of all agencies and institutions. 	<p>Labour migration provisions included in the Labour law</p> <p>Participation by all stakeholders in issues pertaining to migration</p> <p>Gender responsive NLMP</p> <p>Enhanced protection of migrant workers</p> <p>Enhanced protection of migrant workers</p>	<p>Jaune, 2023</p>	<p>Technical and financial support requested in all the activities</p> <p>Consultant fees Workshop costs/validation workshop</p> <p>Consultant fees</p> <p>4 Bilateral pre meetings with RSA</p> <p>Signing of the BLA</p>



	<ul style="list-style-type: none"> • Conduct assessment of the NLMP to determine the gender responsiveness and climate change responsiveness to labour migration issues • Align the current national Bilateral guidelines with the African Union BLMA. • Review MOU on labour cooperation between Lesotho and South Africa as well as the Lesotho Special Permit (LSP) in collaboration with tripartite plus partners <p>Negotiate the extension/ reissuance of work-permits for the 30,000 Basotho migrant farmworkers in an irregular situation in the agricultural sector in the Republic of South Africa.</p> <ul style="list-style-type: none"> • • Finalize MOU between Lesotho and Mauritius • Negotiate bilateral labour agreement with the government of Qatar on Lesotho manpower employment in designated sectors in Qatar • Prepare lobbying plan and advocacy plan for ratification of labour migration conventions. • Ratification of Conventions 97 and 143 and Recommendations 86 and 151 and C.181 private employment agencies. 	<p>Enhanced protection of migrant workers</p> <p>Enhanced protection of migrant workers</p> <p>Consultations with the social partners on ratification held</p> <p>Domestic laws, policies and strategies aligned to International Labour Standards and best practices.</p> <p>Fair recruitment which respects rights of migrant workers</p> <p>Universal coverage on social security.</p>		<p>4 Bilateral meetings with Mauritius- online and physical. Internal consultations with social partners plus. Qatar. - 2 online meeting (airtime purchase) 2 physical</p> <p>3 Meetings with social partners, parliament social and economic cluster</p> <p>Meeting with NACOLA and parliament social cluster</p> <p>Expertise from ILO</p>
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	<ul style="list-style-type: none"> • Finalize the development of guidelines for recruitment agencies to curb recruitment malpractices, forced labour and trafficking in persons. • Finalize the development of Sesotho information booklet for migrant workers intending to take up employment abroad and the Training manual for Labour Inspectors. • Develop a checklist for to assist in identifying VOTs for labour inspectors. • Piloting SADC Guidelines on the Portability of Social Security Benefits. • Improve collection, compilation, analysis and accessing of labour migration data with the purpose of contributing to SADC's Labour Market Observatory by (Mainstreaming of statistical processes into daily routine activities using the proposed statistical tools for collecting migration data) • Accreditation of skills of returned migrant mineworkers through Recognition of prior learning mechanism • To offer skills development, start-up equipment and capital to migrant workers' returnees (vulnerable categories) to address the drivers of migration and 	<p>Evidence based policy making</p> <p>Ex-mineworkers absorbed into the labour market</p> <p>Returnees absorbed in the labour market</p> <p>Returnees absorbed in the labour market</p>		
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	<p>adverse effects of climate change and environmental migration</p> <ul style="list-style-type: none"> • Development and implementation of clear guidelines for skills transfer plans. • Piloting of the SADC E-certificate and E-credentialing system. 			
Building the Capacity on Labour Migration Management	<ul style="list-style-type: none"> • Undertake a performance audit of the Migrant Liaison Unit. • Undertake a performance audit of the work permits Unit • Re-organizing the Migrant Liaison Unit for it to effectively perform the following strategic activities (pre-departure training, contract vetting and registration, licensing, regulation and training of private employment agencies, support and complaints lodging, social protection) • Conduct a training needs assessment for the Migrants Liaison Unit staff • Train Migrant Liaison Officers and other selected officers within the Ministry on Labour Migration. • Training of stakeholders to increase their capacity to prepare, design, negotiate, monitor and evaluate BLAs at all stages of their implementation through training and study tours. 	<p>Effectively functioning of migrant Liaison Unit</p> <p>Effectively functioning of migrant Liaison Unit</p> <p>Effectively functioning of migrant Liaison Unit</p> <p>Effectively functioning of migrant Liaison Unit</p> <p>Highly competent staff negotiating labour agreements</p>	June, 2023	Financial support to engage a consultant who will develop a strategic plan and the organogram.



	<ul style="list-style-type: none"> Partnering with institutions of higher learning such as the National University and other institutions like ARLAC, ILO, IOM in designing Labour Migration capacity-building courses 			
	<p>Training on Labour Migration and mixed migration,</p> <ul style="list-style-type: none"> ethical recruitment and Trafficking in persons, and Forced Labour (tri-partite plus) Skills dimensions of migration Governance of Labour Migration in the SADC Labour migration academy 	Stakeholders knowledgeable on labour migration dimensions	June, 2023	
Strengthening Coordination of Labour Migration activities	<ul style="list-style-type: none"> Establish a committee on labour migration comprising of representatives from key institutions, governmental, and non-governmental Resuscitating Coordination working Teams in the mines in RSA Draft terms of reference for Coordination Teams Hold quarterly coordination meetings 	Improved coordination and coherence and cooperation	June, 2023	
Sensitization on Labour Migration issues	<ul style="list-style-type: none"> Conduct awareness campaigns labour migration, fair and ethical recruitment to curb recruitment malpractices, forced labour and human trafficking rights and obligations of migrant workers (through TV and Radio programmes; public gatherings; publications; social media pages and Ministerial website). Trainings 	All key stakeholders including the public knowledgeable about labour migration, trafficking in persons and forced labour)	June, 2023	



B. Mixed Migration

Opening on Mixed Migration by the Ministry of Home Affairs

Presentation: It was noted that the MoHA defined mixed migration as a complex population movement from one country to another. It was noted but the role of the MoHA in managing mixed migration included setting up departments namely Immigration Department, National Identity and Civil Registration, Refugee Management Unit, and Passport Services. It was also noted that the Ministry was also the custodian of the Anti-Trafficking Act 2011, and its 2015 Regulations as well as the National Strategic Framework and Action Plan for 2021-26. The Ministry was also responsible for TIP data collection.

In terms of international instrument Lesotho is a signatory of the 1951 Refugee Convention and the 1964 Protocol. It is also a signatory to the OAU 1969 Convention on the Specific Aspects of Refugee Problems in Africa as well as the Kampala convention of 2009. Lesotho is also an active member of the UNHCR's Executive Committee since 1979. At the national level, there is the Refugee Act of 1983 and the Refugee Regulations of 1986. It was also noted that in 1983 listen to established the refugee coordinating unit which falls under the Ministry of Home Affairs.

Labour exploitation of victims of human trafficking and smuggled migrants

Presentation: The presentation noted that in terms of trends it was noted that female victims continue to be the primary targets for Trafficking in Persons. In 2018, most women and girls detected were trafficked for sexual exploitation, whereas men and boys were mainly trafficked for forced labour. The most predominant form of exploitation picked up was labour exploitation, followed by sexual exploitation. Considering that men have been the majority of victims, it is makes sense that the labour exploitation was the purpose of the traffickers. Most sexual exploitation in Lesotho was inflicted on female victims deceived with the promise of work or education opportunities in South Africa, yet ultimately physically and/or sexually abused at the destination.

Children in Lesotho are subjected to the worst forms of child labor, including in forced domestic work, forced livestock herding, and commercial sexual exploitation, each sometimes as a result of human trafficking. Labour exploitation and Trafficking in Persons was noted to be more pronounced in the following areas: (i) Domestic work (mainly in houses and gardeners); (ii) Working in mines and in factories (in South Africa); (iii) Drug trafficking/mules; (iv) Children beggars; (v) Sexual exploitation in brothels and others.

In terms of government efforts, the Kingdom-



- In 2021, the government enacted the Anti-Trafficking in Persons Amendment Act of 2021, which amended the definition of trafficking to criminalize all forms of sex trafficking and removed the option of a fine in lieu of imprisonment for trafficking offenses;
- Section 77 of the Children’s Protection and Welfare Act (CPWA) criminalized child sex trafficking offenses without requiring the use of force, fraud, or coercion;
- The Lesotho Mounted Police Service’s (LMPS) Child and Gender Protection Unit (CGPU) led anti-trafficking law enforcement efforts until October 2020, when the government established the Trafficking in Persons and Migrant Control Unit within the LMPS, which assumed responsibility for all trafficking-related investigations.

Main discussion points: the Dialogue noted that-

- Need for ratifying of Protocol on Free Movement of Persons and COMESA protocol and implementation of SADC Strategy to Combat Human Trafficking and People Smuggling;
- Need to develop a tool to assess employment advertisements in the media, print, electronic and social media; and,
- There is a link in the migration route be it smuggling, trafficking or refugee movement. There needs to be a regional analysis conducted to identify possible risks to migrants, perpetrators and drivers in the region among others.

Concretising the UNHCR Mandate: Protecting and Assisting Its Persons of Concern

Presentation: it was noted that based on the 1951 Geneva Refugee Convention, UNHCR's core mandate is to ensure the international protection of uprooted people worldwide. The organization promotes the basic human rights of refugees and ensures they will not be returned involuntarily to a country where they face persecution. It was highlighted that despite the pandemic the number of people fleeing was violence persecution in human rights violation rose in 2020 by 4 percent to nearly 82.4 million.

It was noted that the benefits of building a quality asylum system for asylum seekers and refugees included the promotion of: (i) fairness; (ii) efficiency; (iii) adaptability; and (iv) integrity. It was also noted that the Kingdom had ratified the 1951 Geneva Refugee Convention and had no reservation in the implementation of its provision, hence permitted refugees to move within the country and seek employment, once they get a work permit.

Main discussion points: during the discussion it was noted that:

- ❖ The implementation of the Refugees Act is important and with the support of the UNHCR, the Kingdom has been able to employ personnel to undertake the work of the Unit responsible for refugees;
- ❖ It was noted that there was need to harmonise national laws and policies for the protection and promotion of rights for refugees. The employment laws in the country need to be in



alignment with the ratified refugees' instruments and not speak to reservations in the employment of refugees; and,

- ❖ There was need to develop a comprehensive roadmap on the implementation the commitments that have been made under the GRF pledges made and the implementation of the Refugees Act.

Protection Assistance to vulnerable individuals in the mixed flows

Presentation: the presentation noted that human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. Everyone is entitled to all the rights and freedoms set forth in the UN Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Most human rights are guaranteed irrespective of any individual migration status and personal status is an irregular migrant does not exclude him/her from the protection of human rights. Like all citizens, non-citizens are entitled to the rights that are absolute and rights whose denial would never be justified. These rights include the right to life, prohibition against cruel and torture, inhuman and degrading treatment or punishment, the right to due process of the law and the freedom of thought, conscience and religion. All these rights are protected by international and regional laws which obligate the state to observe and protect the rights of individuals who enter their territory and look beyond the documentation required for entry.

In mixed migration flows vulnerable individuals are categorised under the following groups: refugees and asylum seekers, rejected asylum seekers, victims of trafficking (including present trafficked persons and potential traffic persons), stateless persons, accompanied and separated children, stranded migrants, and other vulnerable migrants.

Main discussion points: the discussions noted that, there was-

- limited understanding on mixed migration and the need for the protection of all migrants and refugees, thus there was need for capacity building across all government ministries;
- need for a fully-fledge training and education meeting/programme on mixed migration and human rights;
- need to build nation-wide awareness on the rights of migrants regardless of their status of migration, as they being human beings first entitles them to human rights and the protection of such; and,
- need to establish a national referral mechanism for mixed migration.

Recommendations on Mixed Migration

The following recommendations were noted as a way forward:



- there is need for a fully-fledge dialogue on mixed migration to be organized, with enough time to deliberate issues of mixed migration;
- there is need to undertake public awareness programmes on labour migration and the rights of labour migrants to avoid and prevent xenophobic tendencies within communities;
- Promotion and protection of rights of persons of concerns in regards to social protection and other rights related to work;
- Protection assistance to be given according to different needs identified for each class of migrants after they have been profiling of their needs; and,
- Request for capacity building for government officials from different ministries on mixed migration.



Annex 1: Dialogue Pictures



Annex 2: Participants List

No	Name and Surname	Ministry /Organisation	Title	Male / Female
1	Mr. T'so Augustunus Sechaba	Institute of Development Management (IDM)	Principal Consultant-Business Development	M
2	ADV. Rethabile Sakoane	Tharollo Consultancy	Executive Director	M
3	ADV. Senekane Ishmael Qobolo	Lesotho Council on Higher Learning	Compliance Officer	M
4	Mr. Mokotjo Solomon Pelei	Ministry of Trade and Industry,	Civil Servant	M
5	Mr. Monaheng Vincent Monaheng	Ministry of Trade and Industry	Director -OBFC	M
6	Ms. Mpho Edith Theko	Women in Law in Southern Africa (WILSA)	Legal Officer	F
7	Mr. Moseli Gabriel Khoeli	Ministry of Development planning-Lesotho Bureau of Statistics	Senior Statistician	M
8	Mr. Shafiq Isaacs Tau	Mineworkers Development Agency	Programme Manager	M
10	Ms Mants'alla Eliza Ramakhula	Lesotho Council of Non-Governmental Organisation	Coordinator For Women and Children Commission	F
11	Mrs Maleshoane Lepota- Mosakeng	Lerotholi Polytechnic	Registrar	F
12	Mr. Mpho Manyeli	Ministry of Labour and Employment	Labour Inspector	M
13	Ms Martha Mamosehle Mosoang	Lesotho Trade Union Congress	General Secretary	F
14	Ms. Motebang Leboela	Lesotho Public Servants Associations	Gender Coordinator	F
15	Mrs. Makamohelo Tlokotsi	Ministry of Labour and Employment	Senior Labour Officer	F
16	Mr. Mpho Matsinyane	Ministry of Labour and Employment	Labour Inspector	M



17	Ms. Makatleho Agnes Mahlelebe	Ministry of Labour and Employment	Labour Inspector	F
18	Ms. Nomabandla Mochochoko	Ministry of Labour and Employment	Migrant Liaison Officer (Social Security)	F
19	Ms. Ithabeleng Phanngoa	Ministry of Labour and Employment	Legal Officer (Social Security)	F
20	Mrs. Masepheaphe Matete	Ministry of Labour and Employment- Legal Unit	Chief Legal Officer	F
21	Mr. Ransto Mantsi	Ex-mineworkers Association	Executive Director	M
22	Mrs. Maretsepile Lesia	Ministry of Labour and Employment	Registrar- Trade Unions and Employers Association	F
23	Ms. Mampho Nkone	Ministry of Labour and Employment	Labour Inspector	F
24	Ms. Matlotliso Thelejane	Ministry of Home Affairs	Immigration Manager (NCC)	F
25	Ms. Ntsebo Ranko	Ex-mineworkers Association	Programs Officer	F
26	Hlalele Pascalis Tsolo	Association of Lesotho Employers and Business	Advocate	M
27	Mrs Mamokhantso Nkune	Democracy and Good Governance Officer	Catholic Commission for Justice and Peace	F
28	Ms. Malikhabiso Majara	Lesotho Textile Export	Secretary General (NCC)	
29	Mr. Lebonejoang Molefi	Lesotho Labour Council	General Secretary	M
30	Mr. Robert Mokhahlane	Lesotho Labour Council	National Organize	M
31	Mr. Mphezah Mphezah	Lesotho University Teachers and Researchers Union		M
32	Mr. Nkareng Letsie	Policy Analysis and Research Institute of Lesotho	Director	M
33	Ms. Mamahoe Mahase Letsosa	Policy Analysis and Research Institute of Lesotho	National Treasure	F
34	Mr. Letsatsi Pascalis Ntsibolane	Lesotho Association of Teachers	Secretary-General	M
35	Mr. Shata Mothae	Cabinet Office- Prime Minister's Office	Director- Lesotho Smart Partnership (NCC)	M
36	Mr. Sethathi Realeboha	Ministry of Foreign Affairs	Minister Counselor	M



37	Mr. Mathlalefo Sekhonyana	TEBA-LESOTHO	Development Coordinator	M
38	Ms. Masekonyela Lehula	Ministry of Home Affairs	Immigration Manager	F
39	Ms. Mamakebe Moshoeshe	Lesotho Association of Teachers	Representative	F
40	Mr. Nthatisi Leseba	National University of Lesotho	Lecturer	M
41	Mr. Theodoor Sparreboom	ILO DWT/CO-Pretoria	Senior Labour Migration Specialist	M
42	Ms. Lucia Rodrigues	ILO DWT/CO-Pretoria	Finance & Administration Officer, SAMM Project	F
43	Mr. Nyasha Muchichwa	ARLAC	Consultant	M
44	Mr. Patrick Nalere	ARLAC	Executive Director	M
45	Mr. Sipho Ndlovu	ILO DWT/CO-Pretoria	Programme Officer	M
46	Ms. Mamakiso Ernestina Mathatjane	Ministry of Labour and Employment	Principal Employment Officer	F
47	Ms. Mpinane Masupha	Ministry of Labour and Employment	Principal Liaison Officer	F
48	Ms. Mamohale Matsoso	Ministry of Labour and Employment	Labour Commissioner	F
49	Ms. Makhoabane Ledimo	Ministry of Labour and Employment	Deputy Principal Secretary	F
50	Ms. Makarabelo Montsi	Ministry of Labour and Employment	Public Relations Officer	F
51	Ms. Mareithabetse Seleteng	Ministry of Labour and Employment	Administration Manager	F
52	Ms. Malebohang Lesaoana	Ministry of Labour and Employment	Economic Planner	F
53	Mr. Teboho Peter Tolo	President	Lesotho Federation of Trade Unions	M
54	Dr. Matloleng Matlou	Regional Protection Coordinator	UNHCR	M
55	Mr. Nteboleleng Mosehle	Ministry of Labour and Employment	Ass. PRO	M
56	Mr. Lekhema Ramaphini	MWA-LS	Coordinator	M
57	Mr. Ezekiel Scabata	LTTU	D. President	M



58	Mr. Tefelo Maboce	Ministry of Labour and Employment	Inspections Manager	M
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