

Lesotho Labour Migration Review

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FOREWORD

The Southern Africa Migration Management (SAMM) project represents a collaborative effort embodying the ONE-UN approach, uniting the expertise and resources of four prominent UN development and/or humanitarian agencies: the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC), and the United Nations High Commissioner for Refugees (UNHCR).

The SAMM project is dedicated to improve labour and mixed migration management in the Southern Africa and Indian Ocean region. By focusing on South-South migration flows, the project aims to uncover and enhance the positive spillover effects of international migration on regional integration and economic development (e.g. recognising the positive contribution of migrant workers to economic growth).

The SAMM project first produced a Labour Migration Stocktaking Report for the SADC region. Labour Migration Reviews (LMRs) are complementary tools aimed to enhance the capacity of Ministries of Labour, Employers' and Workers' Organizations to engage in tripartite dialogue and influence evidence-based policy formulation and implementation for fair labour migration governance. LMRs include information on at least, seven key labour migration thematic areas:

1. Gender-responsive labour migration policies and/or strategies;
2. International labour standards and national legislation on the protection of migrant workers, as well as advocacy on the contribution of migrant workers to development;
3. Bilateral labour migration agreements (BLMAs) across the region and with third countries;
4. Fair recruitment and decent employment for migrant workers including regulatory legislation on Private Employment Agencies (PEAs), and strengthening of Public Employment Services (PES);
5. Social Security Portability of Benefits for migrant workers through the SADC Guidelines on the Portability of Social Security Benefits;
6. Skills mobility (skills anticipation, skills profiling, skills matching, skills transfer and recognition of qualifications of migrant workers), as well as support to the SADC Qualifications Framework;
7. Labour migration statistics (indicators, module, inclusion in labour market information systems, etc).

The ILO believes that this publication will provide valuable insights and contribute significantly to the ongoing efforts to improve labour migration governance effectively in the SADC and IOC region. We extend our gratitude to all partners and stakeholders for their unwavering support and commitment to this crucial endeavour.

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1 INTRODUCTION

Lesotho is a major migration source country within the SADC region. During the apartheid period, most migration consisted of male contract migrants working on the South African mines (Sechaba Consultants, 1998). In the last three decades, there have been significant shifts in migration movements from Lesotho including a sharp decline in migration to the mine industry (Crush et al., 2010), increased migration to work in other South African sectors such as farming, construction and artisanal mining, and a major increase in female labour migration for domestic work and farmwork in South Africa (Griffin, 2010; Ulicki and Crush, 2007). All of these new trends are well-documented. However, less attention has been paid to temporary labour migration to Lesotho, although there have been a few studies of Chinese migration to the country (Batsani-Ncube, 2022; Hong, 2020, 2022). The release of the 2018 National Labour Migration Policy (NLMP) draws attention to this growing phenomenon and proposes various policy reforms to better manage this movement.¹ In this review, we first summarize the NLMP provisions relating to migration to Lesotho. This is followed by an overview of labour migration trends to Lesotho. The other sections of the report focus on the evolving policy and regulatory framework for governance of labour migration to Lesotho.

2 NATIONAL LABOUR MIGRATION POLICY (NLMP)

In 2013, Lesotho drafted a National Migration and Development Policy which stressed the importance of aligning migration-related policy, legislative and institutional interventions to achieve developmental outcomes with international and regional standards and comparative benchmarks. In 2015, the Ministry of Labour and Employment (MoLE) began the process of drafting a National Labour Migration Policy (NLMP). In 2017, a Labour Migration Management Assessment was conducted and a report based on this assessment was drafted and validated. The report identified the key issues and challenges in Lesotho in relation to labour migration and became the basis for a National Labour Migration Policy that was adopted and validated in 2018. The general objectives of the NLMP are to:

- Ensure that governance of labour migration in Lesotho is in line with relevant international labour standards and good practices and adheres to the regional provisions on labour migration;
- Safeguard all human rights of migrant workers within and outside Lesotho's territorial boundaries;

¹ See <https://www.sammproject.org/download/national-labour-migration-policy-for-lesotho/?wpdmdl=4681&refresh=63a40e05cb6d81671695877&ind=1628674704728&filename=Lesotho%20National%20Labour%20Migration%20Policy.pdf>

- Promote employment and decent work through labour migration;
- Ensure access to social security by migrant workers and their families;
- Ensure that labour migration contributes to the development objectives of the economic development of Lesotho.

The NLMP and its accompanying Action Plan sets out various areas of intervention:

- Building Lesotho's approach to labour migration as a rights-based, gender-sensitive, employment and development-oriented labour migration policy;
- Governance of labour migration in Lesotho;
- Labour migration data for policy-making;
- Capacity-building activities for Government officials, social partners and civil society organisations;
- Promoting ethical recruitment (pre-departure training, contract vetting, regulation of private Employment Agencies);
- Strengthening the social protection of migrant workers;
- Social welfare of migrant workers: financial education, banking, productive investments, educational loans, Return and reintegration;
- Reforming the work permit system (digitalisation, modernisation of labour market tests, re-design of application process and coordination with immigration);
- Labour inspectorate and complaint mechanism (capacity-building, legislative reform);
- Improve communication and integration between migrant workers and local workers in private sector business and between migrants and local communities to foster a stable and inclusive society;
- Social protection and welfare (living conditions) of migrant workers in Lesotho.

For each of the areas of intervention, the NLMP sets out the intended outcomes that need to be achieved through the implementation of the Action Plan that accompanies the NLMP. On Data for policy-making, the NLMP's strategic objective is to ensure that the Government and all relevant stakeholders rely on regularly updated and publicly available labour migration data, aligned to international and SADC standards as well as national labour market information indicators, for policy analysis, and monitoring and evaluation of the NLMP. A priority activity of the NLMP is that the Bureau of Statistics, the Ministry of Home Affairs (MHA), the Ministries of Justice and Police, and the Ministry of Labour and Employment establish a joint structure responsible for the regular collection, compilation, harmonisation and analysis of labour migration data and their broad dissemination; the publication of regular reports on an online platform; and organisation of training of data users.

3 LABOUR MIGRATION TO LESOTHO

3.1 Migration Data Sources

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

- Lesotho Labour Force Survey 2019 (Lesotho Bureau of Statistics, 2021)
- UNICEF Migration and Displacement country profile (MCDP) (UNICEF, 2021)
- UN DESA Migrant Stock by Origin and Destination 2019 Update

3.2 Migrant Trends

UN DESA data shows the total number of foreign-born international migrant stock in Lesotho from 1990 to 2019. The data suggests a relatively stable migrant stock of between 6,000 and 7,000 in the last decade. a decreasing trend from 1990 to 2000 and a slightly increasing trend since 2000 (Table 1). The share of SADC migrants has also remained stable at just below 50%. Over half of the migrants in Lesotho are from outside the region but only a few are refugees. In 2019, there were 06 refugees and asylum seekers in Lesotho from the DRC, Ethiopia, Eritrea, and Uganda (UNHCR, 2019).

Table 1 - Migrant Trends and SADC Share of Migrants, 2000-2019

	Total Migrants	SADC Migrants	% SADC Migrants
2000	6,167	2,855	46.3
2005	6,290	2,911	46.3
2010	6,414	2,968	46.3
2015	6,572	3,040	46.3
2019	6,928	3,199	46.2

Source: UN DESA

However, the Lesotho Labour Force Survey 2019 recorded the foreign-born population aged 15 years and above was over 16,000 (Lesotho Bureau of Statistics, 2021).

3.3 Countries of Migrant Origin

UN DESA data indicates that 86% of migrants from other SADC countries are from South Africa, with much smaller numbers from 8 other countries. In total, South Africans make up 40% of the total migrant stock in the country (Table 2).

Table 2 - SADC Origin Countries, 2019

	No of SADC Country Migrants	% of SADC Migrants	% of Total Migrants
South Africa	2,751	86.0	39.7
Botswana	113	3.5	1.6
Tanzania	89	2.8	1.3
Zambia	72	2.3	1.0
Zimbabwe	72	2.3	1.0
Malawi	37	1.2	0.5
Eswatini	37	1.2	0.5
Mozambique	24	0.8	0.3
Namibia	4	0.1	0.1
Total	3,199	100.0	46.2

Source: UN DESA

Other African countries with small numbers of labour migrants in Lesotho include Ghana, Uganda and Tanzania (Table 3). Overall, Lesotho is a destination for migrants from 11 African countries, three Asian countries, and one North American country. "Other North" and "Other South" make up 40% of the total migrant stock but country-specific data is unavailable.

Table 3 - Regions and Countries of Migrant Origin in Lesotho, 2019

	Total Migrants	% of Total
Africa		
South Africa	2,751	39.7%
Uganda	144	2.1%
Botswana	113	1.6%
Ghana	93	1.3%
Tanzania	89	1.3%
Zambia	72	1.0%
Zimbabwe	72	1.0%
Malawi	37	0.5%
Eswatini	37	0.5%
Mozambique	24	0.3%

Namibia	4	0.1%
Sub-Total	3,436	49.6%
Asia		
India	240	3.5%
Pakistan	240	3.5%
China	127	1.8%
Sub-total	607	8.8%
North America		
USA	93	1.3%
Sub-Total	93	1.3%
Other		
Other South	1,097	15.8%
Other North	1,695	24.5%
Sub-Total	2,792	40.3%
Total	6,928	2.8%

Source: UN DESA

The 2019 Lesotho LFS report indicates that there were 16,118 international migrants in Lesotho (Table 4). The LFS methodology appears to have missed labour migrants from African countries other than South Africa and Zimbabwe. However, the LFS data for urban and peri-urban migrants is relatively close to the overall UN DESA figure. The rural migrant population is 9,849 of whom over 90% are South African. This may be because this includes individuals born in South Africa and/or who have dual citizenship who have returned to their rural homes in Lesotho.

Table 4 - Geographical Distribution of Migrant Population in Lesotho, 2019

	Urban & Peri-Urban	%	Rural	%	Total
South Africa	5,997	37.9	9,808	62.1	15,805
Europe	42	45.7	51	54.3	92
Zimbabwe	92	100.0	0	0.1	92
China	46	100.0	0	0.1	46
Other Asia	0	0.0	41	100.0	41
Total	6,269	38.9	9,849	61.1	16,118

Source: Lesotho Bureau of Statistics (2021)

3.4 Migrant Age and Sex Distribution

Table 5 from UN DESA data shows that the gender breakdown of the migrant stock is 46% female and 54% male. With the exception of the small number of migrants from Eswatini, males exceed females from every country of origin. Table 5 shows that the South African breakdown is 49% female and 51% male, although Table 6 from the LFS indicates that the proportion is 25% female and 75% male.

Table 5 - Sex Breakdown of Migrant Stock in Lesotho, 2019

	Total Migrants	No. of Females	No. of Males	% Female	% Male
South Africa	2,751	1,336	1,415	48.6	51.4
India	240	106	134	44.2	55.8
Pakistan	240	106	134	44.2	55.8
Uganda	144	64	80	44.4	55.6
China	127	54	73	42.5	57.5
Botswana	113	63	50	55.8	44.2
Ghana	93	30	63	32.3	67.7
USA	93	44	49	47.3	52.7
Tanzania	89	44	45	49.4	50.6
Zimbabwe	72	33	39	45.8	54.2
Zambia	72	33	39	45.8	54.2
Eswatini	37	20	17	54.1	45.9
Malawi	37	14	23	37.8	62.2
Mozambique	24	7	17	29.2	70.8
Namibia	4	1	3	25.0	75.0
Other South	1,097	480	617	43.8	56.2
Other North	1,695	742	953	43.8	56.2
Total	6,928	3,177	3,751	45.9	54.1

Source: UN DESA

Table 6 - International Labour Migrants by Place of Origin and Sex, 2019

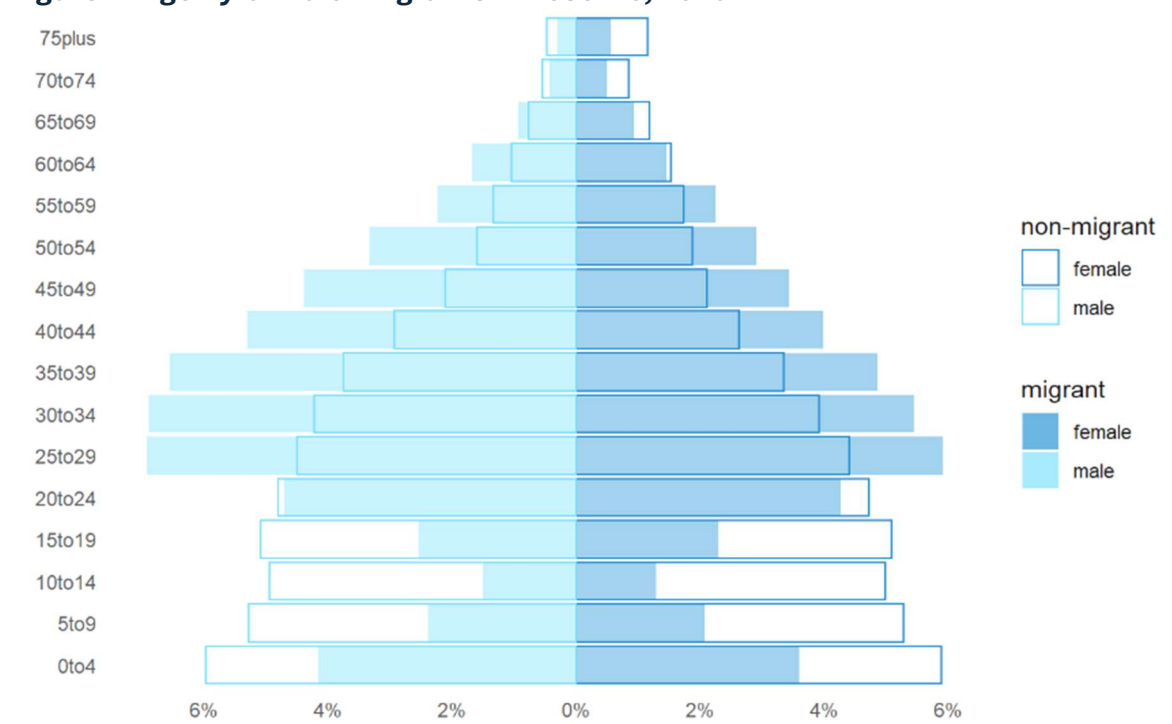
	Total Migrants	No. of Females	No. of Males	% Female	% Male
South Africa	15,805	5,548	10,257	35.1	64.9
Zimbabwe	92	66	26	71.9	28.1
Europe	92	41	51	45.1	54.9
China	46	0	46	0.0	100.0

USA	42	0	42	0.0	100.0
Other Asia	41	0	41	0.0	100.0
Total	16,118	5,655	10,463	35.1	64.9

Source: Lesotho Bureau of Statistics (2021)

UNICEF's Migration and Displacement Country Profile (2021) shows the age and gender population pyramid of migrants and compares the migrant group with non-migrants in Lesotho in 2020 (Figure 1).

Figure 1- Age Pyramid of Migrants in Lesotho, 2020



Source: UNICEF (2021)

3.5 Migrant Employment

Data on the employment sectors for labour ILOSTAT indicates that out of 16,118 foreign-born international migrants in Lesotho, about 7,000 are engaged in different employment activities (Table 7). Most migrants (almost 83%) are engaged in industry and services. In terms of gender, almost two-thirds of male migrants work in the non-agriculture sector while only one-third of female migrants are employed in this sector. However, female migrants share in the agriculture sector is 50%.

Table 7 - Employment by sex, economic activity, and place of birth

Sector		No. of Migrants Employed	% Male	% Female
Agriculture		1,200	50.0	50.0
Non-Agriculture	Industry	1,900	73.7	31.6
	Services	3,900	66.7	30.8
	Sub-Total	5,800	69.0	31.0
Total		7,000	65.7	34.3

Source: ILOSTAT (n.d.); Lesotho Bureau of Statistics (2021)

3.6 Work permits:

The Department of Immigration Services under the Ministry of Home Affairs is responsible for providing different permits to visit and work in Lesotho (Ministry of Home Affairs Lesotho, n.d.). However, there is no accessible information on the number of permits issued.

4 LABOUR MARKET POLICIES AND LEGISLATION

4.1 Lesotho's Constitution of 1993 with Amendments²

Chapter 2 of Lesotho's Constitution of 1993 (with amendments through 2018) sets out the Protection of Fundamental Rights and Freedoms of all persons in Lesotho, as follows:

Every person in Lesotho is entitled, whatever his (sic) race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status to the following fundamental human rights and freedoms:

- the right to life;
- the right to personal liberty;
- freedom of movement and residence;
- freedom from inhuman treatment;
- freedom from slavery and forced labour;
- freedom from arbitrary search or entry;
- the right to respect for private and family life;
- the right to a fair trial of criminal charges against him and to a fair determination of his civil rights and obligations;

² https://www.constituteproject.org/constitution/Lesotho_2018.pdf?lang=en

- freedom of conscience;
- freedom of expression;
- freedom of peaceful assembly;
- freedom of association;
- freedom from arbitrary seizure of property;
- freedom from discrimination;
- the right to equality before the law and the equal protection of the law; and
- the right to participate in government

With the exception of political rights (the right to participate in government), that are explicitly granted to citizens only, all other rights in Chapter 2 apply to all persons in Lesotho. However, the Constitution does provide for the possibility that restrictions on these rights may be imposed on persons who are not citizens - for example, with regards to freedom of movement, the Constitution provides for

- the prohibition from entry into Lesotho of a person who is not a citizen of Lesotho; and
- the imposition of restrictions on the freedom of movement of any person who is not a citizen of Lesotho

4.2 Labour Code Order 1992 ³

The Labour Code Order of 1992 is the primary instrument that regulates employment in Lesotho and applies to the employment of both citizens and migrant workers. Amongst other provisions, the Code provides for the following:

- establishment of a labour court;
- protection of wages;
- health, safety and welfare at work;
- employment of women;
- labour agents;
- contracts of foreign service;
- employment of non-nationals;
- trade unions and employers' organisations;
- forced labour and unfair labour practices.

The code gives domestic legal effect to the international labour conventions that have been ratified by Lesotho, prohibits discrimination based on nationality, and entrenches the principles of equality of treatment between national and foreign workers.

³ <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/31536/64865/E92LSO01.htm>

4.3 Aliens Control Act, 1966 ⁴

The Aliens Controls Act of 1966 is the immigration law that prescribes the permitting system for the employment of migrant workers in Lesotho. Generally, a prospective employee needs to obtain both a work permit and a separate residence permit for prospective migrant workers. The Ministry of Labour is responsible for processing and granting work permits to foreigners, and in order to obtain an employment certificate, an employer must provide a motivational letter, stating reasons why a foreign national is required to do the job. Once a foreign national has been granted a work permit, his or her employment conditions are regulated by the Labour Code Order of 1992.

5 LABOUR MARKET INSTITUTIONS

All the labour market institutions discussed below are established in terms of the Labour Code Order of 1992.

5.1 Labour Court

The Labour Court has exclusive jurisdiction as regards any matter provided for with regards to labour laws. As per the Labour Code, the Court is composed, as follows:

- Registrar of the Court who shall be a person qualified in law and who shall be appointed by the Minister for the purpose of carrying out duties in relation to the decisions, awards, other records and docketing of the Court. The Minister may also appoint Deputy Registrars as are necessary.⁵
- President and Deputy Presidents (such number as may be considered necessary), appointed by the Minister
- Two or more ordinary members of the Court as determined by the Minister
- After consultation with representative trade unions the Minister shall nominate a number of persons not exceeding eight altogether having experience or knowledge of labour relations from an employee's point of view to constitute a panel known as the Labour Panel.
- After consulting representative organisations, the Minister shall nominate an equal number of persons having experience or knowledge of labour relations from a management point of view to constitute a panel known as the Management Panel.

⁴ https://sherloc.unodc.org/cld/uploads/res/document/aliens-control-act-1966_html/Aliens_Control_Act_1966.pdf

⁵ The Labour Code Order of 1992 defines 'Minister' as the *Minister responsible for the administration of the Code*, without any reference to a specific ministry or line function.

5.2 National Advisory Committee on Labour

The National Advisory Committee on Labour is the committee that is mandated with advising the Minister of Labour and Employment on matters relating to labour. It has representation from the Government, the trade unions and employer organizations.

5.3 The National Advisory Council for Occupational Safety, Health and Welfare

The National Advisory Council for Occupational Safety, Health and Welfare reviews and advise the Minister and the National Advisory Committee on Labour on the operation of any legislation or regulations relating to employees' health, safety and welfare at work.

5.4 National Employment Service

The National Employment Service collects information with regards to any employment related issue including information on vacancies, collecting information and statistics regarding the labour market, including information on labour requirements and labour supply, to be forwarded to the Labour Commissioner.

5.5 Labour Commissioner and Labour Officers

The Labour Commissioner and Labour Officers are appointed by the Minister. A labour officer may, for the purpose of ascertaining that the provisions of the Code and any other written law relating to labour, employment, industrial relations, working conditions or workers' compensation are being duly observed at all reasonable times, whether by day or night, and without previous notice enter freely, inspect and examine any premises.

5.6 Wages Advisory Board

The Wages Advisory Board upon being required to do so by the Minister, inquire into the wages and conditions of employment of any employees in such part of Lesotho as may be specified in the order. The Board shall advise the Minister and the National Advisory Committee on Labour on such other matters relating to wages and conditions of employment as the Minister may refer to it. The Board meets not less than once a year. Every employer to whom a wages order applies shall display a copy of such wages order in every workplace in which employees to whom the wages order applies work.

5.7 Industrial Relations Council

The Industrial Relations Council consists of three members representing the Government, three members representing the employers and three members representing the employees. The functions of the council will be to advise on the qualification and appointment of judges, assessors, conciliators and arbitrators.

5.8 Directorate of Dispute Prevention and Resolution

The Directorate of Dispute Prevention and Resolution attempts to prevent and resolve labour disputes through conciliation and arbitration. It also has an advisory capacity to employers and employees on prevention and resolution of disputes. The directorate or its officer shall not disclose to any person information, knowledge or document that is acquired on a confidential basis or without prejudice.

6 RATIFICATION OF INTERNATIONAL INSTRUMENTS

Lesotho has ratified 21 ILO Conventions, of which 21 are in force.⁶ With regard to fundamental rights covering all workers in the country, including migrant workers (regardless of migration status), the following Conventions have been ratified

	Convention No	Title	Date of Ratification
Fundamental Conventions	C029	Forced Labour Convention, 1930 (No. 29)	31 Oct 1966
	C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	31 Oct 1966
	C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	31 Oct 1966
	C100	Equal Remuneration Convention, 1951 (No. 100)	27 Jan 1998
	C105	Abolition of Forced Labour Convention, 1957 (No. 105)	14 Jun 2001
	C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	27 Jan 1998
	C138	Minimum Age Convention, 1973 (No. 138)	14 Jun 2001
	C155	Occupational Safety and Health Convention, 1981 (No. 155)	01 Nov 2001
	C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	14 Jun 2001
Governance Conventions	C81	Labour Inspection Convention, 1947 (No. 81)	14 Jun 2001

⁶ https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103188

	C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	27 Jan 1998
Technical Conventions	C97	Migration for Employment Convention (Revised), 1949 (No. 97)	22 Mar 1965

Lesotho has not ratified the following ILO conventions that are specifically related to labour migration or of particular significance in terms of the recruitment and employment of migrant workers:

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Employment Policy Convention, 1964 (No. 122)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Private Employment Agencies Convention, 1997 (No. 181)
- Domestic Workers Convention, 2011 (No. 189)
- Violence and Harassment Convention, 2019 (No. 190)

Lesotho ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 16 September 2005.⁷

7 BILATERAL LABOUR AGREEMENTS

The Lesotho NLMP makes reference to an agreement entered into with South Africa in 1973, which was replaced by MOU's in 2006 and 2013. While the 1973 BLA focused on organising the recruitment of Basotho workers to be employed in South Africa, the 2006 and 2013 agreements are aimed at facilitating cooperation between the two countries on labour matters more broadly, which included addressing labour migration issues such as outstanding benefits and compensation claims. The NLMP further notes that the recent agreements signed with South Africa do not follow any model aligned to international standards.

In its forward-looking strategy regarding BLAs, the NLMP notes the following:

- Lesotho commits to pursuing a strategy of placement of its workers abroad for employment based on a clear set of principles, goals and protective instruments, including education and training opportunities.
- The modernisation and professionalisation of placement, vetting, recruitment regulation, and accompanying services within the Ministry of Labour and Employment

⁷ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=97&Lang=EN

- The adoption of a radically new approach in terms of BLAs seeking to entrench protection of migrant workers and broadening of employment, education and training opportunities as priorities.
- Providing a range of services to migrant workers which will ensure protection and accompanying of workers throughout the migration cycle, including return and reintegration into the labour market.

8 FAIR RECRUITMENT OF MIGRANT WORKERS

In its reflection of fair recruitment in Lesotho, The NLMP notes that fraudulent recruitment practices are reported to be high and that the current regulatory system in place is insufficient in terms of checks and alignment to international best practice.

The NLMP proposes the following areas of intervention:

Promoting ethical recruitment:

The objective is to establish consistent legislative, regulatory and operational frameworks to promote and enforce ethical recruitment relying on professional and capacitated public employment services (PES) and private employment agencies (PEAs) working, if need be, in partnership. This will require the establishment of 3 dedicated units for Pre-departure training and sensitization, Contract vetting, and Registration, licensing and training of Private Employment Agencies including adoption of Terms of Reference, guidelines and communication tools for each unit. It will also require the development of national campaigns against fraudulent recruitment practices and trafficking.

Effective support and complaint mechanisms:

The objective is to consolidate and strengthen existing support and complaint mechanisms to assist Basotho migrant workers throughout the duration of their migration. This includes an ability to intervene in foreign jurisdiction through available channels and to have efficient referral systems in place with specialised knowledge of labour dispute and resolution mechanisms in countries of destination. This will require the strengthening of existing services and consolidating them into one specific unit dedicated to support and complaints lodging with legal, counselling, and referral capacities. It will also require the adoption of a coordination plan with other Lesotho and foreign investigative and judiciary services through appropriate agreements (police, justice, labour court) and the development of a recruitment, training and deployment plan for labour attachés between the Ministry of Labour and Employment and the Ministry of Foreign Affairs and International Relations.

9 SKILLS RECOGNITION OF MIGRANT WORKERS

In 2019, the Government of Lesotho, through the Ministry of Education and Training, adopted the Lesotho Qualifications Framework (LQF) to regulate qualifications in the country. While the LQF predominantly focuses on the standardisation of the vetting and recognition of education and training skills and qualifications, it does acknowledge that this is being done within the framework of the SADC Protocol on Education and Training, as well as the need to be aligned with the SADC Qualifications Framework. Specifically, it is noted that the LQF has been developed to ensure:

- regional and international comparability and compatibility of qualifications, and
- consistency in terms of the qualification verification and articulation processes of all awards in education, training, research, innovation and skills development within Lesotho, the SADC region and internationally.

While no specific mention is made of migrant workers, the alignment of the LQF with the SADC-QF should facilitate the recognition of skills and qualifications of migrant workers and mobility between Lesotho and other SADC Member States.

10 SOCIAL PROTECTION OF MIGRANT WORKERS

In 2013, the ILO conducted a comprehensive review of social security systems in Lesotho and made a number of recommendations in this regard.⁸ Subsequently, the Government of Lesotho adopted a National Social Protection Strategy (NSPS), 2014/15–2018/19 that sets out the broad objectives for the development and implementation of social security and social assistance programs and that incorporated many of the recommendations that were put forward in the ILO study, as follows:

- A comprehensive and inclusive national social security system based on sound social insurance principles, allowing for risks to be pooled and promoting solidarity – aimed at better protection of workers and their families;
- instituting greater self-reliance and a sustainable contributory system, for a reduced burden on general government revenue;
- a more comprehensive coverage through new and improved benefits, keeping up with inflation, in line with international standards and principles;
- achieving greater access to social security and inclusiveness in line with current labour market realities;

⁸ILO/Government of Lesotho (2013). Policy Brief: National Social Security Law establishing the Lesotho Social Security Organization (LSSO), the National social security fund and related benefits.

- addressing forms of discrimination, gender and other equity concerns inherent in the existing arrangements; and,
- enhancing cost effectiveness through economies of scale in operations and an effective legal, administrative and regulatory framework.

The Lesotho NSPS does not have any explicit references to migrant workers. However, when read in conjunction with the National Labour Code of 1992 (which explicitly promotes equality and prohibits discrimination), the assumption is that migrant workers will benefit from the proposed social security arrangements.

The Lesotho NLMP has a section that focuses on Basotho migrant workers abroad and provides for the following:

Strengthening social protection:

The objective is to consolidate, strengthen and expand social protection mechanisms availed to Basotho migrant workers during their stay abroad and upon their return into Lesotho. This implies catering for outstanding claims, assisting with social rights access and portability across scattered periods of contribution and establishing a social security network of support back home, and envisaging bilateral social security agreements.

The NLMP proposes the establishment of a social protection unit dedicated to assisting migrant workers which will

- coordinate unilateral extension of social security,
- promote protection of workers abroad through compulsory medical cover and assistance with accessing existing public health services,
- professionalise and expand staff responsible for assistance with unclaimed benefits, repatriation of pension rights,
- and compensation claims with a primary objective of exhausting all outstanding claims over 12 months.

Social welfare of migrant workers:

The objective is to professionalise, strengthen and expand a range of social welfare services availed to Basotho migrant workers and their families throughout the migration cycle, especially those in irregular situations who cannot contribute into foreign schemes, to maximise the positive impact of labour migration on their livelihoods and broadly on Lesotho's development perspectives.

The NLMP proposes the following:

- An assessment of labour migration impact on children left behind;
- A study to establish a welfare service for migrant workers;

- Development of basic assistance schemes on financial education;
- Retraining and reintegration of migrant workers into the labour market;
- Development of comprehensive return and reintegration plan for migrant workers under BLAs; and the
- Design of incentives for enterprise creation through partnerships with experienced civil society organisations

The table below is adapted from *Access to Social Services for Non-Citizens and the Portability of Social Benefits within the Southern African Development Community* published in 2011.⁹ The information contained in the table may require updating to reflect the current situation. However, it provides a useful indication of the extent to which migrant workers (who would fall into the categories of permanent or temporary residents and undocumented migrants) may have had access to social security and social protection in Lesotho, at the time of publication.

	Social Assistance	National and Occupational old-age and disability pension	Unemployment Benefits	Health Care and Health Insurance	Public Housing	Public Schooling
Citizens						
	✓	✓	X	✓	✓	✓
Permanent Residents						
	X	✓	X	✓	✓	✓
Temporary Residents						
	X	X	X	X	X	✓
Undocumented Migrants						
	X	X	X	✓	X	✓

⁹ Letlhokwa George Mpedi and Nicola Smit (Eds.), *Access to Social Services for Non-Citizens and the Portability of Social Benefits within the Southern African Development Community* (Bloemfontein: Sun Press, 2011).

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