

United Republic of Tanzania 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

Tanzania is one of eight predominantly migrant destination states in SADC. However, the type of migrants it receives varies significantly from all the other countries. In Tanzania, most migrants are refugees who are required to live in several large ‘designated areas’ (otherwise known as refugee settlements or camps) in the west of the country. While refugees are not generally classified as labour migrants, the distinction is not as clear in Tanzania as some refugees seek employment or engage in other employment or income-generating economic activity. Tanzania is also a transit country for migrants travelling from the Horn to countries further South, especially South Africa. These migrants may seek temporary work in the country to help fund their journey. There is also growing irregular migration to the country’s border areas and cities which is an issue of increasing policy concern. This overview first provides information on migration flows to Tanzania since 1990 and paints a picture of the contemporary migrant population in the country from existing data sources. It then summarizes the legal framework and labour market institutions in the country and the state of ratification of ILO and other international instruments. The remaining sections examine key policy issues affecting management of labour migration to Tanzania.

2 MIGRATION DATA SOURCES

The main data sources for migration to Tanzania used in this report include:

- UN DESA Migrant Stock Country Profile (UN DESA, 2019a)
- UN DESA Migrant Stock by Origin and Destination 2019 Update (UN DESA 2019b)
- UNHCR Data (<https://www.unhcr.org/data.html>)
- Department of Immigration Services (Work Permit Data)

3 LABOUR MIGRATION TRENDS AND DYNAMICS

3.1 Total Migrant Stock

As Figure 1 and Table 1 suggest there is a consistent gap between the total number of international migrants and the number of refugees in Tanzania.

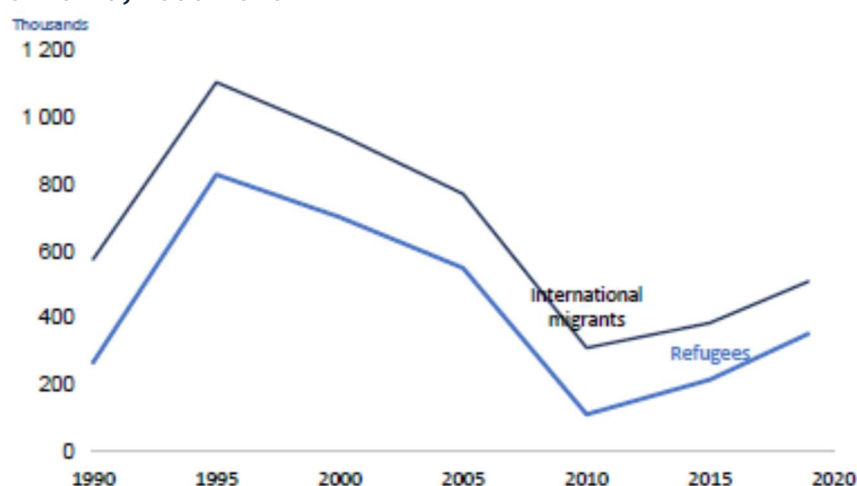
Table 1 - Migrant Stock of Tanzania, 1990-2019

	1990	1995	2000	2005	2010	2015	2019
International migrants	574,000	1,106,000	949,600	771,200	309,800	384,600	509,200
Refugees	265,200	829,700	702,300	549,100	110,500	214,000	352,700
Non-Refugees	211,200	276,300	247,300	222,100	199,300	170,600	156,500

Migrants as % of Total Pop.	2.3	3.7	2.8	2.0	0.7	0.7	0.9
Non-Refugees as % of Migrants	36.8	25.0	26.0	28.8	64.3	44.3	30.7

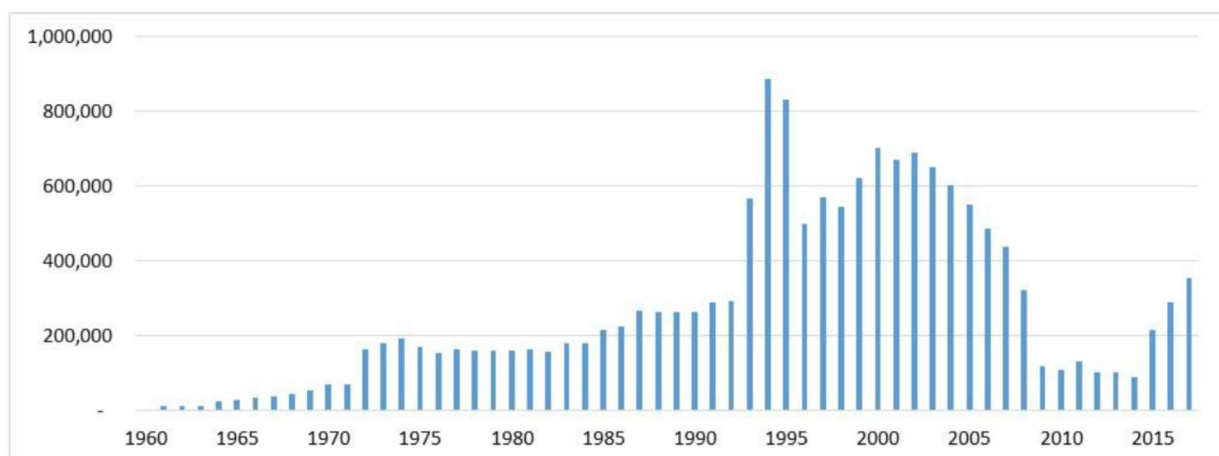
Source: UN DESA (2019a)

Figure 1 - Number of International Migrants and Refugees in the United Republic of Tanzania, 1990-2019



UN DESA data for Tanzanian estimated migrant stock (defined as the number of foreign-born people of all ages in a country) suggests that the total number of migrants in Tanzania peaked at 1,106,000 in 1995 before falling to a low of 309,800 in 2010 and then increasing again to 509,200 in 2019 (Table 1). The number of refugees in Tanzania peaked at 829,700 in 1995, fell to 214,000 in 2015 and has since risen again to 352,700 in 2019 as new refugees arrived in the country (Figures 1 and 2). The proportion of non-refugee migrants in the total population increased in the 1990s but fell to its lowest level in 30 years in 2019 (at 156,500 or 31% of the migrant stock). Total international migrants make up less than 1% of the total population of the country.

Figure 2 - Number of Refugees in Tanzania, 1960-2017



Source: Ogude (2018: 2)

3.2 Countries of Migrant Origin

UN DESA (2019b) provides data on the country of origin (birth) for 239,294 migrants in Tanzania in 2019. Burundi is the main country of origin (with nearly 150,000 migrants or 62% of the total), followed by the DRC, Kenya, Congo and Mozambique (Table 2). Most migrants from Burundi and the DRC came as refugees (Figure 3). The number of Burundi migrants in Tanzania in the last decade was affected by two important developments. First, 160,000 long-time refugees and their dependants living in Tanzania were granted Tanzanian citizenship by Government (Milner, 2014; Daley et al., 2018). Second, nearly 140,000 refugees have voluntarily repatriated to Burundi since 2017 (UNHCR, 2021).

Table 2 - Countries of Origin of Migrants and Refugees in Tanzania, 2019¹

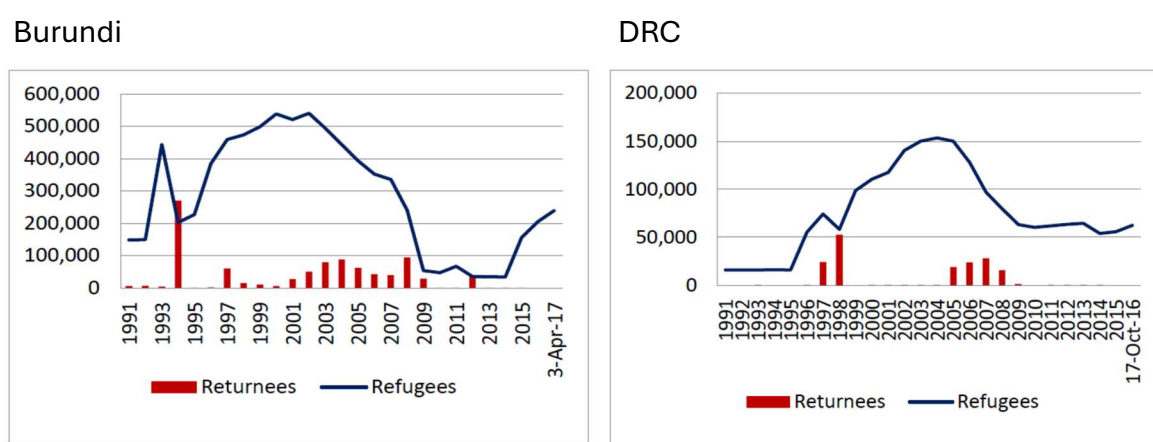
Country of Origin	No. of Migrants	% of Total	No of Registered Refugees
Burundi	148,262	61.96	192,231
DRC	41,669	17.41	49,672
Kenya	13,989	5.85	5
Congo	11,378	4.75	
Mozambique	6,576	2.75	
Zambia	3,888	1.62	
India	3,098	1.29	
Malawi	2,846	1.19	
Uganda	2,087	0.87	
Somalia	1,276	0.53	159
USA	565	0.24	
United Kingdom	552	0.23	
Zimbabwe	458	0.19	
Angola	449	0.19	
Germany	445	0.19	
South Africa	251	0.10	
Pakistan	242	0.10	
Namibia	226	0.09	
Italy	218	0.09	
Comoros	212	0.09	
Rwanda	182	0.08	65

¹ The UN DESA data for No. of Migrants includes refugees but does not distinguish between refugees and non-refugees. We included UNHCR data for 2019 for refugees under UNHCR mandate only in the table. For some reason, these numbers are actually larger than the total no of migrants for Burundi and the DRC from UN DESA.

Seychelles	114	0.05	
Canada	104	0.04	
Mauritius	79	0.03	
Lesotho	67	0.03	
Botswana	37	0.02	
Eswatini	24	0.01	
Total	239,294		100.00

Data Source: UNDESA (2019b), UNHCR (2022a)

Figure 3 - Number of Refugees from Burundi and DRC in Tanzania, 1991-2017



Source: Ogunde (2018: 3)

Irregular labour migration from neighbouring countries has been a growing government concern (Mtui 2013; MHA, 2016; Neema, 2013; Whittaker, 2020). In 2013, 10,045 irregular migrants were arrested and 173 were deported (MHA, 2016). In 2018, 12,600 irregular migrants were arrested in border areas and 6,918 were deported. Some are refugees who have left the camps to work as domestic and farm labourers for local employers. Others are in transit from countries such as Ethiopia en route to South Africa (Whittaker, 2020). In 2014, the Government established a Comprehensive Migration Management Strategy (COMMIST) to register, and profile settled and irregular migrants in Western Tanzania as a pilot study (MHA, 2016).

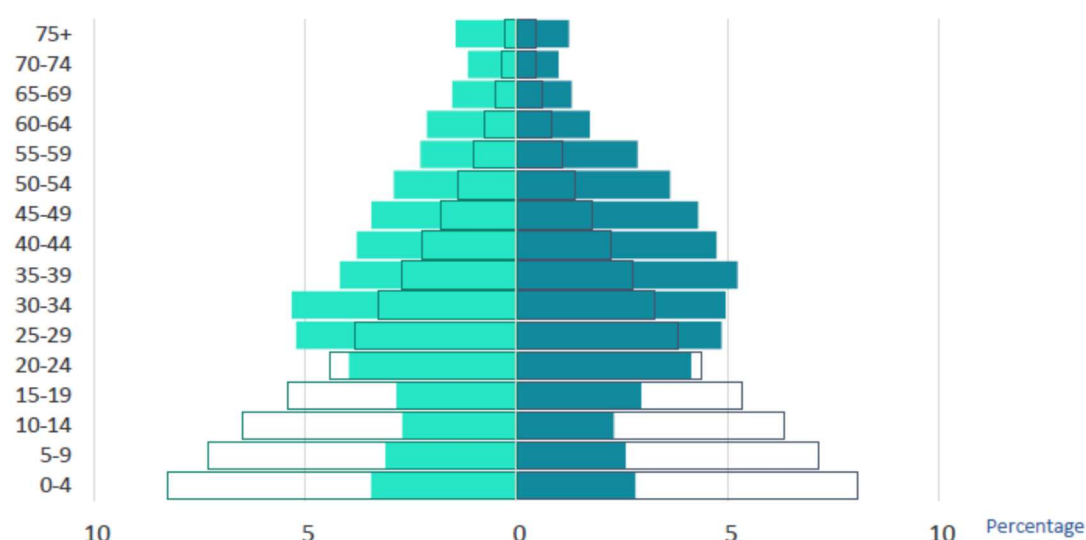
3.3 Age and Sex Profile of Migrant Population

Figure 4 shows the population pyramid for all migrants in Tanzania in 2019 and compares the distribution by age group and sex with that of the total population. A separate breakdown of refugees and non-refugees is not available. The bulk of the migrants and refugees are of working age (with the age groups 25-44 being the most important). The main difference with the pyramid for the total population is the much larger proportion of the total population that is under the age of 20 and the smaller proportion of both men and women over the age of 50. Table 4 shows that females have outnumbered males by

a small margin throughout the last 30 years. The major shift is in the age profile with the average age increasing, the proportion of children and youth declining and the proportion of people of working age increasing over time.

Figure 4 - Age and Sex of International Migrants and Refugees in Tanzania, 2019

Age and sex distribution of international migrants and of the total population in the United Republic of Tanzania, 2019 (percentage)

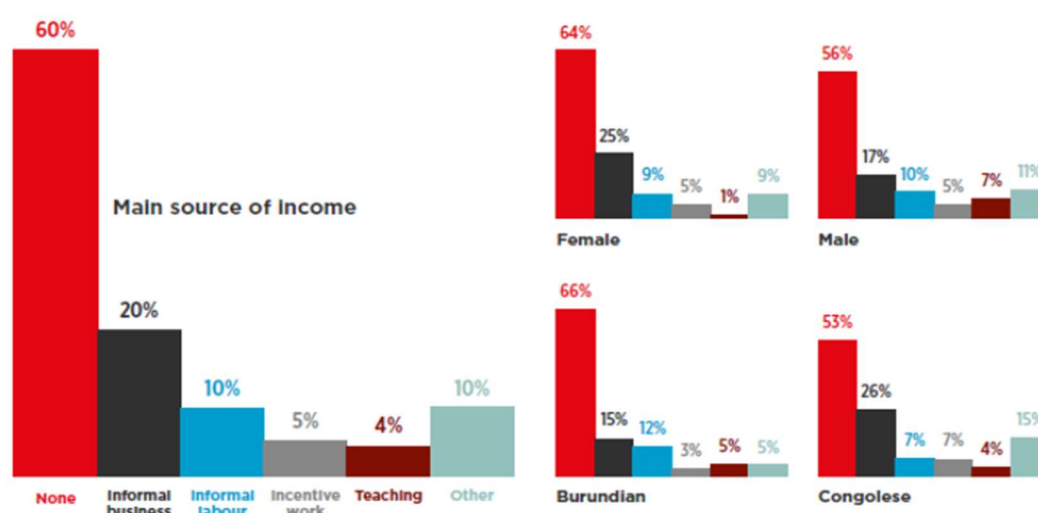


Source: UNDESA (2019a)

3.4 Migrant Employment

Official data on the extent of migrant and refugee employment and self-employment in Tanzania is not available. Of the 246,494 refugees in Tanzania in 2021, 205,691 were camp based including 125,775 from Burundi, 79,762 from the DRC and 154 other nationalities (UNHCR, 2021). By law, refugees are unable to access formal employment and movement outside of the camp is restricted, limiting income generating activities. One study found that approximately 20% of refugees in one camp run informal business activities or participate in trade. Others participate in informal labour activities, such as brick making and building houses (Figure 5). Some studies indicate that refugees are a source of cheap labour for Tanzanian farmers.

Figure 5 - Source of Income of Refugee Households in Nyarugusu Refugee Camp



GSMA (nd: 23)

A recent study by Masabo et al. (2018) of refugee camps in Kigoma Region identified several different income-generating activities:

- Skills-based economic activities (e.g. tailoring/embroidering for both men and women; hairstyling or barbering for both men and women; cooking; bread/soap-making for those trained and supported; repairs (known in Swahili as fundi) these include electronic, bicycle, and mechanical repairs mostly for men; and trades such as carpentry or masonry for men in big business and women in small trade. These are practised by a generally young population that is better educated than average and has often acquired those skills through formal training in their country of origin or in the camp via an aid programme. Many have the skills but no access to the capital required to acquire business materials such as sewing machines, repair tools, and soap materials. Those with skills and no capital can get hired by others.
- Farming. Labour-intensive activities mainly involve renting a farm or farming for or as farm labour for Tanzanians, especially around Nyarugusu camp. Farming does not pay better than the average skill-based activity and is illegal. Congolese refugees have long established relationships to access those jobs, but Burundians are usually regarded as better farmers.
- Low-skilled labour such as bicycle transport or unskilled construction work such as mud brick-making. Children are reported to make bricks and sell them to other refugees building or repairing houses. People also earn money transporting goods across them for business people. Non-farming labour—primarily construction-related—is gendered as a male occupation.
- Incentive work for humanitarian agencies such as work in hospitals, schools, zone leaders, or as enumerators. Those jobs usually go to the most qualified

refugees and come with considerable influence within the community and pay well.

- Refugees who operate a wide range of businesses, from children selling sugarcane to relatively lucrative businesses such as selling fabrics. The basic model for businesses is for refugees to buy products from Tanzanians and sell at higher prices in village markets inside the camps or in small shops. The most successful businesspeople have an above-average level of literacy (e.g. some command of French or English).

In an earlier study, Masabo (2012) identified four categories of irregular labour migrant in Tanzania:

- Colonial-era migrants and their descendants mainly from Burundi, the DRC, Rwanda and Mozambique, which used to be the major suppliers of migrant workers for sisal plantations in colonial Tanganyika;
- Migrants from neighbouring countries, notably Kenya, Uganda and Zimbabwe. Some are educated individuals who hold degrees and diplomas who are mainly employed in the education sector, particularly in private schools with English instruction.
- The tourist industry has increasingly become an attractive destination area for migrants including Malawians (mostly low-skilled migrants employed as domestic workers) and Congolese (mainly music industry, saloons and tailoring);
- Asian migrants from India or China who enter on visitor's visas and engage in disguised employment relationships with their hosts primarily as wholesale or retail sellers of flowers, electronic goods and other merchandise, produced cheaply in China or locally manufactured or assembled in their residences in Dar es Salaam.

The number of refugees who have moved to Tanzania's large cities and are in irregular employment and self-employment is thought to number several thousand. There may be as many as 10,000 in Dar es Salaam alone "though the actual number is likely to be considerably higher" (O'Loughlen and Bwami, 2018). Many migrants in an irregular situation in Dar es Salaam work in the informal economy (Andrew, 2019; AATZ, 2011; O'Loughlen, 2017; O'Loughlen and McWilliams, 2017; Wilson et al., 2021)

4 POLICY AND LEGISLATIVE FRAMEWORK

4.1 Constitution of the United Republic of Tanzania (rev 1995)²

Part 3 (Basic Rights and Duties) of the Constitution of the United Republic of Tanzania has several articles that address the rights of all persons living in the country. Where rights are specifically reserved for citizens, the text is highlighted in the summary below.

- Article 12: Equality of human beings
 1. All human beings are born free, and are all equal.
 2. Every person is entitled to recognition and respect for his dignity.
- Article 13: Equality before the law
 1. All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.
 2. No law enacted by any authority in the United Republic shall make any provision that is discriminatory either of itself or in its effect.
 3. The civic rights, duties and interests of every person and community shall be protected and determined by the courts of law or other state agencies established by or under the law.
 4. No person shall be discriminated against by any person or any authority acting under any law or in the discharge of the functions or business of any state office.
 5. For the purposes of this Article the expression “discriminate” means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.
- Article 14: Right to life
- Article 15: Right to personal freedom
- Article 16: Right to privacy and personal security
- Article 17: Right to freedom of movement: Every citizen of the United Republic has the right to freedom of movement in the United Republic and the right to live in any part of the United Republic, to leave and enter the country, and the right not to be forced to leave or be expelled from the United Republic.
- Article 18: Freedom of expression
- Article 19: Right to freedom of religion
- Article 20: Person’s freedom of association
- Article 21: Freedom to participate in public affairs

² https://www.constituteproject.org/constitution/Tanzania_1995?lang=en

1. Subject to the provisions of Article 5, 39 and 67 of this Constitution and of the laws of the land in connection with the conditions for electing and being elected or for appointing and being appointed to take part in matters related to governance of the country, every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law.
 2. Every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the nation.
- Article 22: Right to work
 1. Every person has the right to work.
 2. Every citizen is entitled to equal opportunity and right on equal terms to hold any office or discharge any function under the state authority.
 - Article 23: Right to just remuneration
 1. Every person, without discrimination of any kind, is entitled to remuneration commensurate with his work, and all persons working according to their ability shall be remunerated according to the measure and nature of the work done.
 2. Every person who works is entitled to just remuneration.
 - Article 24: Right to own property
 - Article 29: Fundamental rights and duties
 1. Every person in the United Republic has the right to duties enjoy fundamental human rights and the benefits of the fulfilment by every person of his duty to society, as provided in Articles 12 to 28 of this Part of this Chapter of the Constitution.
 2. Every person in the United Republic has the right to equal protection under the laws of the United Republic.

4.2 Employment and Labour Relations Act (2006) ³

The Employment and Labour Relations Act has the following stated objectives:

- (a) Promote economic development through economic efficiency, productivity and social justice;
- (b) Provide the legal framework for effective and fair employment relations and minimum standards regarding conditions of work;
- (c) Provide a framework for voluntary collective bargaining;
- (d) Regulate the resort to industrial action as a means to resolve disputes;
- (e) Provide a framework for the resolution of disputes by mediation, arbitration and adjudication;

³

https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf

(f) Give effect to the provisions of the Constitution of the United Republic of Tanzania of 1977, in so far as they apply to employment and labour relations and conditions of work; and

(g) Give effect to the core Conventions of the International Labour Organisation as well as other ratified conventions.

Part 2 of the Act (Fundamental Rights and Protections specifically prohibits child labour, forced labour and discrimination. Discrimination on any of the following grounds is prohibited: (a) colour; (b) nationality; (c) tribe or place of origin; (d) race; (e) national extraction; (f) social origin; (g) political opinion or religion; (h) sex; (i) gender; (j) pregnancy; (k) marital status or family responsibility; (l) disability; (m) HIV/Aids; (n) age; or (o) station of life. The Act specifies that it is not discrimination to employ citizens in accordance with the National Employment Promotion Services Act.

Part 3 of the Act (Employment Standards) sets out the applicable standards of employment with regard to the following:

- Hours of work
- Remuneration
- Leave
- Unfair termination of employment

All of Tanzania's general labour laws, the Employment and Labour Relations Act (ELRA), the Labour Institutions Act 7 of 2004, the Workers Compensation Act 20 of 2008 and their respective regulations or rules such as the Employment and Labour Relations (Code of Good Practice) Rules, 2007 (GN 42/2007), and the Regulation of Wages and Terms of Employment Order, 2010 (GN 172/2010)) apply to all workers including migrant workers (Malabo, 2012)

4.3 National Employment Promotion Services Act (1999) ⁴

Part 6 of the National Employment Services Act (Employment of Foreigners) provides for the following:

25(1) No employer shall employ a foreigner as an employee in any employment or class of employment which the Minister may from time to time by notice in the gazette declare to be employment or class of employment in which citizens only may be employed.

(2) Any employer who employs a foreigner in contravention of subsection (1) commits an offence and is liable on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than six months, or to both such fine and imprisonment.

⁴ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/54432/62315/F892162001/TZA54432.pdf>

26(1). No person employ any foreigner, and no foreigner shall take up any employment with any employer, except under and in accordance with a work permit issued to such permit foreigner.

(2) Any person who contravenes the provisions of this section commits an offence and is liable on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than six months or to both such fine and imprisonment.

27(6). Any person who employs establish a foreigner shall be required to training effective programme to produce local experts to undertake duties of the foreign expert.

The training programme so established should incorporate theoretical and practical aspects, that is, it should aim to equip the local worker or trainee with the requisite skills within a two-year or three-year period so that he or she can take over the duties of the expatriate when the first three years of the work permit have passed, or, in exceptional cases, when five years have passed (Malabo, 2012).

The Mining Act of 2010 also makes the granting of mining licences subject to, among other things, the submission and implementation of a satisfactory employment and training programme for Tanzanians and a succession plan for duties performed by non-Tanzanians (Malabo, 2012: 132).

4.4 Immigration Act 1995

Work permit applications are made to the Immigration Services Department in the Ministry of Home Affairs.⁵ Three classes of residence permits are issued and regulated by the Immigration Act (Malabo, 2012: 179):

- Class A residence permit, also referred to as the ‘investors’ permit’, is granted to all persons who intend to engage in trade, a business, a profession, agriculture, animal husbandry, prospecting of minerals or manufacture. In other words, it is granted to self-employed migrants.
- Class B residence permit, also known as the ‘work permit’, is granted to skilled or professional migrant workers, or ‘expatriates’ as they are commonly known, who have secured employment in Tanzania, excluding those employed in government projects.
- Class C permits cater for students, researchers, retired persons, volunteers, and workers who are employed by religious and charitable organizations.⁶

The Ministry has an Online Work Permit Application and Issuance System (OWAIS). The System is integrated with the Online System for application of Residence Permit (e-

⁵ <http://www.immigration.go.tz/>

⁶ <https://epermit.kazi.go.tz/web/main/guidelines>

Permit), which is run by the Immigration Department. The integrated System enables applicants to electronically submit their applications for Work/Residence Permit, pay required fees, receive status notification and Grant Notice online via their email accounts.

Residence permits (or renewal thereof) for employment in Tanzania are issued to non-citizens with skills not available in the Tanzania labour market and only on the understanding that effective training programmes in service or otherwise are undertaken with a specified period to produce trained citizens competent to replace them.

For enforcement purposes, in each calendar year, employers are required to submit to the Principal Commissioner for Immigration Services (PCIS) an annual return detailing the names of non-Tanzanian employees in that calendar year, the names of such non-citizen employees who left employment in the said calendar year, the immigration status of each employee, and any other particulars that the PCIS requires.

4.5 Non-Citizen (Employment Regulation) Act 2016⁷

Regulates the employment of migrant workers on the mainland. The Act does not apply to members of diplomat community or to other persons exempted by the Minister of Labour and Employment Matters. There are detailed provisions regulating the employment of non-citizens. Any person who wishes to employ or engage a foreign national must apply to the Labour Commissioner. The Labour Commissioner is primarily responsible for regulating and implementing the provisions of the Act.

The Labour Commissioner also advises the Minister on all matters relating to the employment of non-citizens. Generally, the Labour Commissioner has the authority to issue work permits, cancel work permits, supervise and ensure the implementation of the succession plan as provided for by the employer.

In terms of the regulations, employers in Tanzania are required not only to advertise the post but also to interview the shortlisted applicants in the presence of a labour officer (Malabo, 2012). Newspaper clippings of the job advertisement, together with the minutes of the meeting of the interviewing panel bearing the certification by the labour officer, must then be submitted in support of the employer's request to be allowed to import a migrant worker. In practice, employers are required only to submit the newspaper clippings of the job advertisement together with the curriculum vitae of the Tanzanian alternative (Malabo 2012).

⁷ <https://www.refworld.org/docid/3ae6b56bc.html>

Holders of Class B residence (work) permits are not allowed to change their employment, and are not free to work in a location other than the place endorsed in the work permit, without further authorization. The name of employer, the nature of the employment or assignment, and the place (district) where the said employment is to be performed are all endorsed in the permit.

4.6 Refugees Act No. 107 of 1999 and National Refugee Policy of 2003⁸

Section 16: Designated area

- (1) The Minister may, by notice in the Gazette, declare any part of the United Republic of Tanzania to be a designated area.
- (2) The Director of Refugees Services shall appoint a settlement officer to be in charge of such refugee's settlement or of such reception, transit or residence area for asylum seekers or refugees.
- (3) Every settlement, reception, shall include all the land and buildings within the settlement, reception, transit, or residence boundaries or enclosure and also any other land or buildings belonging or attached thereto and used by the asylum seekers or the refugees.

Section 17: Requirement to reside in a designated area

- (1) The competent authority in consultation with the Minister or the Director may by order, require any asylum seeker or refugee or group or category of refugees to whom this section applies who is within his area to reside within a designated area whether or not such area is within the jurisdiction of competent authority.
- (2) The competent authority in consultation with the Minister, or the Director may require any asylum seeker or refugee or group or category of refugees to whom this section applies who is within a designated area within such competent authority's area to move to or reside in any other designated area whether within such competent authority's area or not.
- (3) Any asylum seeker or refugee to whom an order made under this section applies who-
 - (a) fails to comply with such order; or
 - (b) fails to move to or take up resident in a designated area in accordance with such order within reasonable time; or
 - (c) having arrived at a designated area, in pursuance of such order, leaves or attempts to leave such area, except in pursuance of some other order or permit made under this section, shall be guilty of an offence against this Act.

⁸ <https://www.refworld.org/docid/3ae6b50bf.html>; <https://www.refworld.org/pdfid/60a691764.pdf>

(4) The competent authority or the Director as the case may be, may vary, revise or cancel any order or requirement made by him under subsections (1) or (2) of this section.

(5) (a) No asylum seeker or refugee shall be allowed to leave a designated area as directed under this section unless he has sought and obtained a permit from Director or Settlement Officer as the case may be, and, subject to such terms and conditions as the Director or a Settlement Officer may prescribe in the permit.

(b) No asylum seeker or refugee may be allowed to be out of a designated area for more than fourteen days unless the Director has allowed in the permit a longer period upon which an asylum seeker or a refugee may stay outside the designated area.

(6) Any asylum seeker or refugee to whom a permit or travel document has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence against this Act.

Section 32: Work permit for refugees

(1) The Director may grant work permit to any refugee who qualify for the same.

(2) The Director may revoke any work permit granted under this section for any good cause he deems appropriate provided that, before revocation the Director shall give thirty days notice of the intended revocation to the refugee and the employer of the refugee.

(3) The Minister in consultation with Ministry responsible for Labour, may make rules on the model or type of permits to be issued under this Act, time limit of the permits and renewals, the qualifications and procedures for applying for or renewing the permits, and fees, their revocations or representation for review thereof and any forms ensuing therefrom.

(4) Any refugee who works or engages himself in any activity without permit, will be committing an offence under this Act, and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a period not exceeding three years or both fine and imprisonment.

5 LABOUR MARKET INSTITUTIONS

5.1 Labour Commissioner and Deputy

Appointed by the President and responsible for the administration of labour laws. The Minister of State in the Prime Minister's Office appoints Assistant Labour Commissioners to head up Labour Relations, Labour Inspection and Social Security sections. As many labour officers as are necessary to administer and enforce the laws are permitted. The Minister also appoints a Registrar of Organisations responsible for the regulation of trade unions and employer organisations.

5.2 Labour Officers

Have wide powers of entry, search, questioning and seizure. Where the labour officer has reasonable grounds to believe there has been non-compliance, the labour officer may issue a compliance order on the employer, registered trade union and each affected employee. The order should be displayed in a prominent place by the employer. If the employer wishes to object to the compliance order, this should be done within 30 days of receipt of the order, with a copy being served on the Labour Commissioner, union and affected employees. The Labour Commissioner may confirm, modify or cancel the order or specify compliance. If the employer fails to comply the issuing labour officer or Labour Commissioner, as the case may be, may apply to the Labour Court for enforcement. The Court may impose or suspend the order pending appeal.

5.3 Labour Court

A division of the High Court, it consists of a number of Judges and a Chief Justice. There are also two panels of assessors – one from the employers and one from the employees. Decisions are made by the Judge after taking into account the opinions of the assessors and if not in agreement with the opinions, reasons must be given. The Labour Court has exclusive civil jurisdiction over labour matters with all the powers of the High Court. The Labour Commissioner is able to refer any point of law to the Labour Court or Court of Appeal if there are conflicting decisions of the Court on the same point of law; and parties to the dispute have not appealed. Any registered organisation or federation may in relation to issues of law request to be joined as parties to the proceedings.

5.4 Tanzania Employment Service Agency (TaESA)⁹

An Executive Agency under the Ministry of Labour. Under this agency, and in order to better protect departing migrants, the Government of Tanzania organizes pre-departure training for migrants. TaESA functions includes the following:

- Provides placement services to jobseekers and employers;
- Coordinates, provide and monitoring of cross-border placement services;
- Collect, analyze and disseminate Labour Market Information (LMI) to stakeholders and the general public;
- Promotes the provision of job search skills training, career guidance and employment counselling;
- Regulates, registers and monitors public and private employment service agencies, and;

⁹ <https://taesa.go.tz/>

- Promote the use of manual and automated Employment Services processing and analysis techniques.

6 RATIFICATION OF INTERNATIONAL INSTRUMENTS

Tanzania has ratified both the UN and AU Refugee Conventions. It has also ratified 37 ILO Conventions, of which 30 are in force.¹⁰ With regard to labour migration, the following Conventions that have been ratified are of particular interest:

Table 3 - Ratified ILO Conventions

	Convention No	Title	Date of Ratification
Fundamental Conventions	C029	Forced Labour Convention, 1930 (No. 29)	30 Jan 1962
	C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	18 April 2000
	C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	30 Jan 1962
	C100	Equal Remuneration Convention, 1951 (No. 100)	26 Feb 2002
	C105	Abolition of Forced Labour Convention, 1957 (No. 105)	30 Jan 1962
	C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	26 Feb 2002
	C138	Minimum Age Convention, 1973 (No. 138)	16 Dec 1998
	C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	12 September 2001
Governance Conventions	C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	30 May 1983

¹⁰ A full list of ILO conventions ratified by Tanzania is available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103476

Several ILO conventions that are specifically related to or of relevance to labour migration have not been ratified by Tanzania. These include:

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

Tanzania has also not ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

7 BILATERAL & MULTILATERAL MIGRATION AGREEMENTS

Tanzania does not have bilateral labour migration agreements with other countries. However, it is a member of the East African Community (EAC) and Customs Union and Common Market.¹¹ To accelerate economic growth and development, the EAC Partner States maintain a liberal stance towards the four Freedoms of movement for all the factors of production and two Rights. These Freedoms and Rights include:¹²

- Free Movement of Goods
- Free Movement of Persons
- Free Movement of Labour / Workers
- Right of Establishment
- Right of Residence
- Free Movement of Services
- Free Movement of Capital

Underlying the EAC Common Market are operational principles of the Community, namely:

- Non-discrimination of nationals of other Partner States on grounds of nationality;
- Equal treatment to nationals of other Partner States;
- Ensure transparency in matters concerning the other Partner States

With regard to workers, the free movement of labour bestows on migrant workers seven core entitlements:

¹¹ The Common Market Protocol is accompanied by four sets of regulations which are incorporated into the Protocol by way of Annexes: the East African Community Common Market (Free Movement of Persons) Regulations (Annex I); the East African Community Common Market (Free Movement of Workers) Regulations (Annex II); the East African Community Common Market (Right of Establishment) Regulations (Annex III); and the East African Community Common Market (Right of Residence) Regulations (Annex IV). 97 See article 7(5) of the Common Market Protocol (Masabo, 2012: 83)

¹² <https://www.eac.int/immigration>

(i) the right to apply for employment and to accept offers of employment in member states; (ii) occupational mobility within the host country's labour market; (iii) the right to enter into employment contracts; (iv) the right of residence in the host state; (v) organizational rights; (vi) social security rights; and (vii) the right to be accompanied by family members.¹⁰¹ For self-employed migrants, this entails the freedom to take up and to pursue economic activity, the freedom to set up and manage an economic undertaking, freedom of residence, social security rights, and the freedom to be accompanied by family members.

An EAC Regional Consultative Process on Migration is in the process of being established.¹³

8 SKILLS RECOGNITION

In 2010 the Tanzania Commission for Universities published a Draft Tanzania Qualifications Framework (TzQF).¹⁴ With reference to the SADC Qualifications Framework, the documents notes that "The Tanzania Qualifications Framework is expected to serve as an important component of the already conceptualised SADC Qualifications Framework. The SADC framework subscribes to the principle of inclusiveness for educational, vocational and higher education sectors, with links between countries and plans to harmonise qualifications and learning programmes with the goal of facilitating the mobility of learners and workers throughout the region."¹⁵

The rationale for the proposed TzQF hinges on the need for the country to:

- integrate its education and training system at all levels and relate that system with those existing in the other SADC member states;
- set national standards in education and training so as to harmonise and rationalise qualifications and make them comparable with those in the international setting;
- establish mechanisms for the dissemination of equivalences and consequent recognition of qualifications and facilitate the transferability and portability of learning achievements (credits) and qualifications across institutions, levels of education and training, learning modes and borders;
- establish a national education and training database accessible by all stakeholders.

¹³ <https://www.eac.int/press-releases/148-immigration-and-labour/2363-eac-set-to-establish-regional-consultative-process-on-migration>

¹⁴ https://www.idea-phd.net/images/doc-pdf/TCU_NQF_Final_Report_March_2010.pdf

¹⁵ https://www.idea-phd.net/images/doc-pdf/TCU_NQF_Final_Report_March_2010.pdf

The TzQF aims to standardise and harmonise the country's qualifications by putting in place a system for setting standards defining expected knowledge, skills and understanding needed for labour market employment, self-employment or further education. The TzQF is thus a national qualifications system with agreed principles, practices, procedures and standardized terminology with a view to ensuring effective comparability of qualifications in the SADC region so as to facilitate mutual recognition of qualifications among member states, as well as mobility of students and trained labour.

9 FAIR RECRUITMENT

Part V of the Employment Promotion Services Act lays out procedures for establishing and registering private recruitment agents, and the ethical requirements for the operation of this industry. However, recruitment agents are neither registered by the Commissioner for Labour nor are their activities monitored (Masabo, 2012). They are only registered and licensed as normal business companies by the Business Registrations and Licensing Agency (BRELA) under the business laws. A mandate to register and to monitor the operations of private recruitment agents is now the responsibility of TaESA. There is no robust network of private recruitment agents in Tanzania, unlike Kenya where a relatively strong network of recruitment agencies exists (Masabho, 2012: 165). Only a few employers in Tanzania use international recruitment agencies and the proportion of workers recruited through private recruitment agencies, both national and international, is therefore negligible.

Labour migration policy requires all recruitment procedures to be completed before a migrant worker moves to Tanzania. Employers therefore use migration networks, private recruitment agencies, and web-based recruitment to identify prospective employees. Masabo (2012: 155) notes that “a large proportion of migrant workers in Tanzania, particularly those who come from India and other countries in Asia, are recruited through the existing network of their compatriots and contemporaries who are already working in Tanzania. This network informs them about vacant posts, the necessary skills and the employment conditions. This method is also popular among workers within the EAC.”

10 SOCIAL PROTECTION

Masabo (2012) observed that “social security coverage is chronically low and vastly inadequate. There is no universal social security coverage, and the rate of coverage is as low as five per cent of the total labour force.” Since then there have been several positive policy developments (George et al., 2021; Ulriksen, 2016, 2018; Wright et al., 2018). These include a National Social Protection Framework (NSPF).¹⁶ In 2015-2016, the ILO also supported Tanzania in the development of proposals for a national social protection

¹⁶ <https://www.social-protection.org/gimi/RessourcePDF.action?id=55789>

floor (SPF).¹⁷ Masabo (2012) notes that migrants in formal employment are obliged to subscribe to existing social security schemes but that there are no provisions for cross-country portability of social security. Furthermore, “migrant workers in the informal sector and atypical employment, which is where the majority of irregular migrants are found, have no recourse to social security.” This still appears to be the case. A recent large-scale study distinguished between locals and internal migrants and contains no data on international migrant access (Risgarrad et al., 2022) to social protection in the transport, informal trade and construction sectors unfortunately.

	Social Assistance	National and Occupational Old-age and Disability Pension	Unemployment Benefits	Health Care and Health Insurance	Public Housing	Public Schooling
Citizens	✓	✓		✓	✓	✓
Permanent Residents	✓	✓		✓	✓	✓
Temporary Residents	✓	✓		✓		✓
Irregular Migrants	✓			✓		✓

¹⁷ https://www.ilo.org/africa/countries-covered/tanzania/WCMS_505529/lang--en/index.htm

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