

Zimbabwe 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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TABLE OF CONTENTS

| | |
|---|----|
| FOREWORD | i |
| ACKNOWLEDGEMENTS..... | ii |
| 1 INTRODUCTION | 1 |
| 2 NATIONAL LABOUR MIGRATION POLICY..... | 1 |
| 3 MIGRATION TO ZIMBABWE | 3 |
| 3.1 Migration Data Sources..... | 3 |
| 3.2 Migration Trends..... | 3 |
| 3.3 Countries of Migrant Origin | 4 |
| 3.4 Age and Sex Distribution of Migrant Population..... | 5 |
| 3.5 Migrant Employment | 7 |
| 3.6 Work permits | 7 |
| 4 LABOUR MARKET POLICIES AND LEGISLATION | 8 |
| 4.1 Constitution of Zimbabwe, 2013 (as amended up to 2021) | 8 |
| 4.2 Labour Act [Chapter 28:01] (updated to 2019) | 10 |
| 4.3 Immigration Act [Chapter 4:02], 1979 (with amendments up to and including 2001) | 11 |
| 5 LABOUR MARKET INSTITUTIONS | 12 |
| 5.1 Labour Court | 12 |
| 6 RATIFICATION OF INTERNATIONAL INSTRUMENTS | 13 |
| 7 BILATERAL LABOUR AGREEMENTS..... | 14 |
| 8 FAIR RECRUITMENT OF MIGRANT WORKERS | 15 |
| 9 SKILLS RECOGNITION OF MIGRANT WORKERS..... | 16 |
| 10 SOCIAL PROTECTION OF MIGRANT WORKERS | 17 |
| REFERENCES | 19 |

1 INTRODUCTION

Prior to 2000, Zimbabwe was a major destination for labour migrants and forced migrants within the Southern African region. During the colonial period, white settlers from Europe and South Africa came to the country to farm expropriated land and live and work in colonial towns and cities. Black migrant workers from countries such as Malawi and Mozambique were employed in the colonial economy as farmworkers, mineworkers and domestic workers (Daimon, 2018; Groves, 2020; Van Onselen, 1976;). Other migrants transited through the country and worked for a period en route to South Africa. In the 1980s, after independence, Zimbabwe received large numbers of refugees from Mozambique as well as skilled migrants from other countries to help build the post-colonial economy (Chikanda & Crush, 2016). Starting in the 1990s and continuing to the present, Zimbabwe became a major source country for migrants to other SADC countries, especially South Africa, and to countries in Europe and North America (Crush & Tevera, 2010; Crush et al., 2016) . Although the number of migrants in Zimbabwe has declined since it peaked in the 1990s, the number of foreign-born migrants within the country makes it one of the largest recipients of migrants in the SADC region. This report therefore provides an overview of the available data on migration to Zimbabwe and the policy framework for the governance of labour migration.

2 NATIONAL LABOUR MIGRATION POLICY¹

With the support of the ILO and the IOM, Zimbabwe initiated a process of developing a National Labour Migration Policy (NLMP) in 2011. Following the drafting of a Situational Analysis Report and a series of consultations with a variety of stakeholders, the NLMP was adopted in 2016 (Government of Zimbabwe, 2020). The Vision, Mission and Strategic Objectives of the NLMP are as follows:

Vision

A well-managed and sustainable labour migration management system that promotes good governance on labour migration, effective regulation of labour migration, and protects the rights of labour migrants and their families and the various stakeholders involved.

¹ <https://publications.iom.int/system/files/pdf/national-labour-migration-policy-for-zimbabwe.pdf>

Mission

Maximisation of benefits of both inward and outward labour migration through safe migration, provision of decent working conditions for labour migrants especially female labour migrants and protection of their fundamental human and labour rights and those of their families.

Strategic Objectives

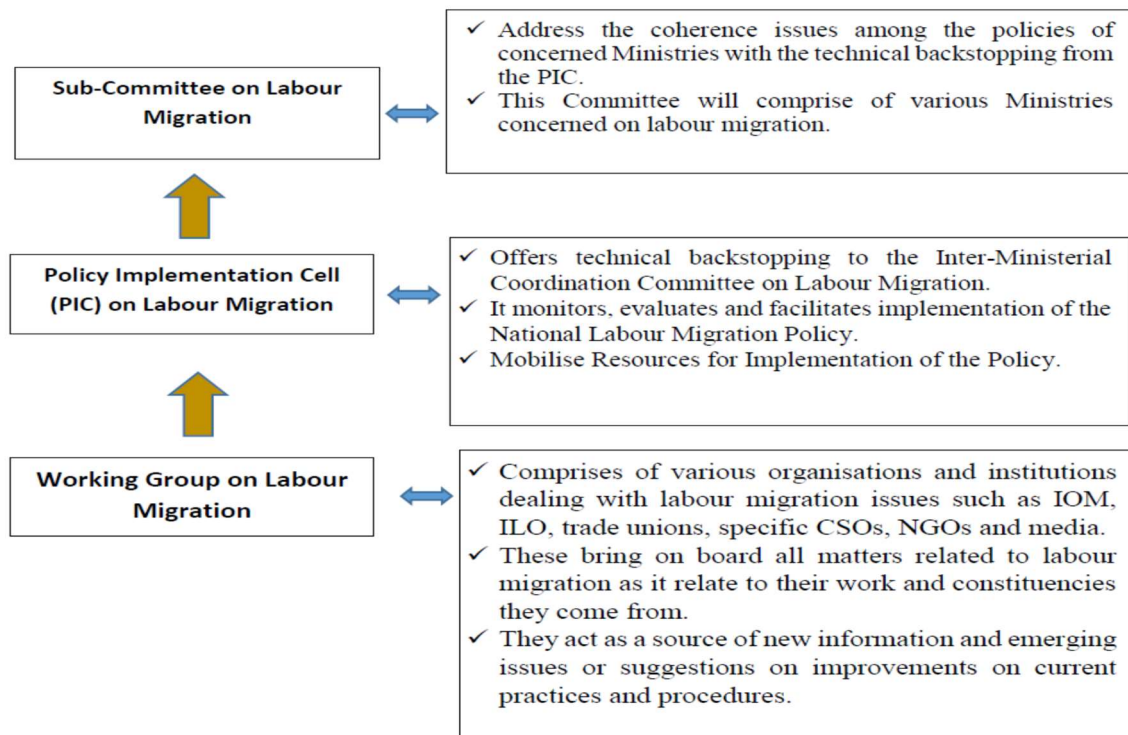
1. Strengthen governance of labour migration and management of labour migration in line with international norms;
2. Promote provision of decent working conditions for both male and female labour migrants and protection of their fundamental human and labour rights and those of their families;
3. Develop mechanisms to inform labour migrants and potential labour migrants on migration options, risks of irregular migration and opportunities for regular migration;
4. Enhance effective mechanisms for harnessing remittances for investment and development in line with the Migration and Development Strategy;
5. Strengthen and engender the Labour Migration Information System ;
6. Strengthen national dialogue on labour migration;
7. Strengthen effective participation in regional and international dialogue on labour migration;
8. Strengthen Migration Resource Centres (MRC) that will provide educative, informational material and awareness programmes to migrant workers; and,
9. Harmonise existing efforts and initiatives that have been undertaken to harness the positive benefits from labour migration

The NLMP identifies four broad policy areas and the action plan that accompanies the NLMP sets out the challenges that need to be addressed and actions to be undertaken. The four broad policy areas are:

1. Governance of Labour Migration
2. Protection and Empowerment of Migrant Workers
3. Harnessing Labour Migration for Development

The implementation mechanism for the NLMP is shown in Figure 1 shown on the following page:

Figure 1 - Implementation of the National Labour Migration Policy



Source: Government of Zimbabwe (2020)

3 MIGRATION TO ZIMBABWE

3.1 Migration Data Sources

The main data sources for migration to Zimbabwe include the following:

- Zimbabwe Labour Force Survey 2019 available through ILOSTAT
- UNICEF Migration and Displacement Country Profile (UNICEF, 2021)
- UN DESA Migrant Stock by Origin and Destination 2019 Update (UN DESA, 2019)
- Zimbabwe Population and Housing Census 2022 (ZNSA, 2022)

3.2 Migration Trends

UN DESA data provides estimates of the total number of foreign-born international migrants in Zimbabwe from 1990 to 2019. In 1990, the country had a total of 634,621 migrants, of whom 92% were from other SADC countries (Table 1). By 2010, the number had dropped below 400,00 and has since stabilized. The SADC share of migrants dropped below 70% in 2010.

Table 1 - Migrants trends and share of SADC migrants 1990-2019

| | Total Migrants | SADC Migrants | % SADC Migrants |
|------|-----------------------|----------------------|------------------------|
| 1990 | 634,621 | 585,810 | 92.3% |
| 1995 | 431,226 | 375,319 | 87.0% |
| 2000 | 410,109 | 338,200 | 82.5% |
| 2005 | 402,226 | 300,516 | 74.7% |
| 2010 | 398,307 | 274,468 | 68.9% |
| 2015 | 400,482 | 275,965 | 68.9% |
| 2019 | 411,257 | 283,387 | 68.9% |

Compiled from UN DESA (2019)

3.3 Countries of Migrant Origin

Intra-SADC migration to Zimbabwe is dominated by migrants from neighbouring Mozambique (43%), Malawi (38%), Zambia (11%) and South Africa (7%) (Table 2). Migrants from only two countries -- Mozambique and Malawi -- account for over 80% of the total SADC migrant stock and 55% of the total migrant stock in the country. The only non-SADC country with a significant number of migrants in Zimbabwe is the UK (at 12,572). According to UN DESA there are an additional 115,298 migrants in the country of unknown origin.

Table 2 - Origin Countries, 2019

| | No of Migrants | % of SADC Migrants | % of Total Migrants |
|--------------|-----------------------|---------------------------|----------------------------|
| Mozambique | 121,628 | 42.9 | 29.6 |
| Malawi | 107,051 | 37.8 | 26.0 |
| Zambia | 31,359 | 11.1 | 7.6 |
| South Africa | 19,524 | 6.9 | 4.7 |
| Botswana | 3,825 | 1.3 | 0.9 |
| Total | 283,387 | 100.0 | 68.9 |

Source: Compiled from UN DESA (2019)

The 2022 Population and Housing Census provides a very different picture of the foreign-born migrant stock in the country by country of birth. First, according to this preliminary report on migration, there were only 236,246 foreign-born migrants in the country, considerably lower than the UN DESA figure of 411,257 (Table 3). Second, the country of origin data varies considerably. For example, the South African born population in Zimbabwe was 19,524 in 2019 according to UN DESA and 137, 594 in 2022 according to the Census. While this may reflect COVID-19 return migration the difference is still large. Other major differences include the migrant numbers for Mozambique (121,628 and 38,915) and Malawi (107,051 and 15,307). Third, the Census indicates that the source countries are more diverse than UN DESA indicates. For example, unlike the Census, UN DESA records no migrants from Namibia, China, other Asian countries or the US (Table 3). Because UN DESA data is based on projections rather than actual counts, the Census is a more reliable source of data on the current migrant population of Zimbabwe.

Table 3 - Foreign-born population by country of birth, 2022

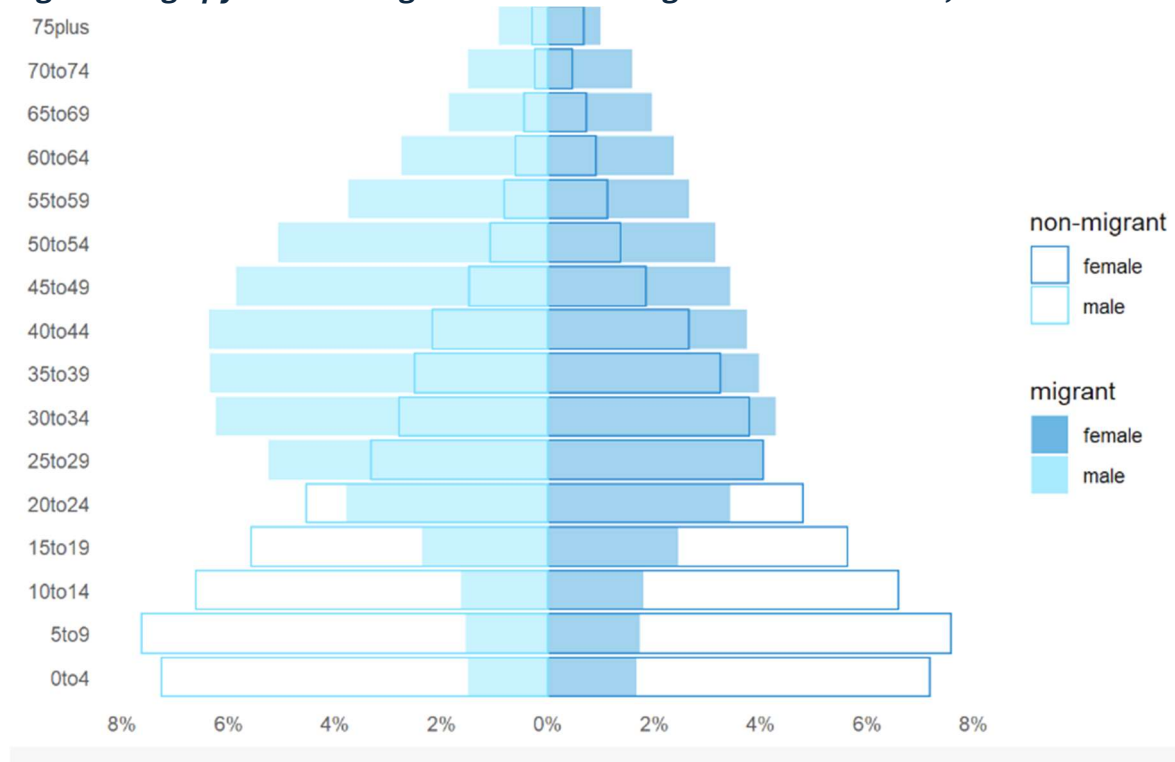
| Country of birth | Province of Residence | | | | | | | | | | Total |
|--------------------------|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|
| | Bulawayo | Manicaland | Mash. Central | Mash. East | Mash. West | Mat. North | Mat. South | Midlands | Masvingo | Harare | |
| South Africa | 17,840 | 8,735 | 2,072 | 8,874 | 6,058 | 16,907 | 23,476 | 14,521 | 23,093 | 16,018 | 137,594 |
| Botswana | 1,693 | 570 | 271 | 1,008 | 750 | 1,179 | 2,693 | 1,617 | 610 | 1,722 | 12,113 |
| Malawi | 940 | 1,009 | 1,724 | 2,568 | 3,402 | 323 | 252 | 814 | 309 | 3,966 | 15,307 |
| Mozambique | 363 | 12,019 | 8,909 | 5,293 | 4,904 | 162 | 164 | 964 | 1,413 | 4,724 | 38,915 |
| Namibia | 77 | 64 | 31 | 131 | 80 | 20 | 14 | 113 | 59 | 325 | 914 |
| Zambia | 903 | 415 | 1,037 | 1,039 | 2,957 | 670 | 279 | 1,056 | 285 | 2,726 | 11,367 |
| United Kingdom | 348 | 95 | 50 | 120 | 126 | 69 | 20 | 73 | 71 | 1,480 | 2,452 |
| United States of America | 64 | 45 | 14 | 41 | 55 | 24 | 9 | 28 | 10 | 333 | 623 |
| Canada | 16 | 3 | 7 | 5 | 10 | 7 | - | 10 | 7 | 67 | 132 |
| China | 48 | 64 | 128 | 119 | 262 | 268 | 49 | 339 | 18 | 718 | 2,013 |
| Australia | 14 | 8 | 7 | 12 | 9 | 8 | 2 | 7 | 1 | 95 | 163 |
| Other African Countries | 294 | 6,251 | 86 | 231 | 204 | 104 | 137 | 114 | 79 | 2,688 | 10,188 |
| Other European Countries | 205 | 80 | 60 | 239 | 132 | 89 | 37 | 75 | 43 | 947 | 1,907 |
| Other American Countries | 48 | 14 | 8 | 30 | 33 | 5 | 8 | 25 | 19 | 121 | 311 |
| Asian Countries | 204 | 108 | 32 | 78 | 110 | 185 | 36 | 123 | 67 | 1,266 | 2,209 |
| Other Countries | 5 | 1 | 1 | 4 | 4 | 4 | 3 | 3 | - | 13 | 38 |
| Total | 23,062 | 29,481 | 14,437 | 19,792 | 19,096 | 20,024 | 27,179 | 19,882 | 26,084 | 37,209 | 236,246 |

Source: ZNSA (2022)

3.4 Age and Sex Distribution of Migrant Population

UNICEF's Migration and Displacement Country Profile (UNICEF, 2021) shows the age and gender population pyramid of migrants and compares the migrant group with non-migrants in Zimbabwe in 2020 (Figure 2). The two groups have a very different profile with migrants of both sexes concentrated in the working age groups between the ages of 30 and 55 and non-migrants heavily biased towards individuals under the age of 20.

Figure 2 -Age pyramid of migrants and non-migrants in Zimbabwe, 2020



Source: MDCP report 2021

UN DESA provides a sex breakdown by country of origin for 2019 with an overall ratio of 57% male and 43% female (Table 4). However, the country breakdown is almost exactly the same in each case which indicates that each country ratio is derived from the overall breakdown. This suggests that the country numbers are not reliable.

Table 4 - Regions and Countries of Migrant Origin in Zimbabwe, 2019

| | No. of Females | No. of Males | % Female | % Male |
|----------------|----------------|--------------|----------|--------|
| Africa | | | | |
| Mozambique | 52,588 | 69,040 | 43.2 | 56.8 |
| Malawi | 46,051 | 61,000 | 43.0 | 57.0 |
| Zambia | 13,646 | 17,713 | 43.5 | 56.5 |
| South Africa | 8,430 | 11,094 | 43.2 | 56.8 |
| Botswana | 1,651 | 2,174 | 43.2 | 56.8 |
| Sub-Total | 122,366 | 161,021 | 43.2 | 56.8 |
| Europe | | | | |
| United Kingdom | 5,431 | 7,141 | 43.2 | 56.8 |

| | | | | |
|--------------|----------------|----------------|-------------|-------------|
| Sub-Total | 5,431 | 7,141 | 43.2 | 56.8 |
| Other | | | | |
| Other South | 47,332 | 62,229 | 43.2 | 56.8 |
| Other North | 2,476 | 3,261 | 43.2 | 56.8 |
| Sub-Total | 49,808 | 65,490 | 43.2 | 56.8 |
| Total | 177,605 | 233,652 | 43.2 | 56.8 |

3.5 Migrant Employment

ILOSTAT provides data on the employment status of the foreign-born population based on the labour force survey of 2019 (Table 5). Over two-thirds of the migrants were employed in the agricultural sector (70.3%). There is also a gender balance in the sector with equal numbers of male and female migrants. The non-agriculture sector, divided into industry and services, employs the remaining 30% of the total. Males dominate both the industrial and services sectors.

Table 5 - Employment by sex, economic activity, and place of birth

| Sector | | Total Employed | No. of Migr-ants Employed | Migr-ants as % of Total | % Break-down by sector | Male No. | % Male | Female No. | % Female |
|-----------------|-----------|------------------|---------------------------|-------------------------|------------------------|---------------|--------------|---------------|--------------|
| Agriculture | | 3,079,200 | 35,400 | 1.2% | 70.3% | 17,700 | 49.9% | 17,700 | 49.9% |
| Non-Agriculture | Industry | 552,500 | 4,500 | 0.8% | 8.9% | 4,000 | 88.9% | NA | NA |
| | Services | 1,303,100 | 10,600 | 0.8% | 21.0% | 5,700 | 53.8% | 4,900 | 46.2% |
| | Sub-Total | 1,855,600 | 15,100 | 0.8% | 29.9% | 9,700 | 64.2% | 5,400 | 35.8% |
| Not classified | | 2,600 | | | | | | | |
| Total | | 4,937,400 | 50,400 | 1.0% | 100.0% | 27,400 | 54.3% | 23,100 | 45.7% |

Source: (ILOSTAT, n.d.)/ LFS 2019

3.6 Work permits

The Department of Immigration under the Ministry of Home Affairs and Cultural Heritage is responsible for issuing visas and permits for foreigners seeking work permits in Zimbabwe. However, there is no publicly available information on the number of work permits issued in the country.

4 LABOUR MARKET POLICIES AND LEGISLATION

4.1 Constitution of Zimbabwe, 2013 (as amended up to 2021) ²

Chapter 4 (Part 2) of the Constitution of Zimbabwe, 2013 (as amended to 2021) sets out the Fundamental Human Rights and Freedoms, as follows:

- 48 Right to life
- 49 Right to personal liberty
- 50 Rights of arrested and detained persons
- 51 Right to human dignity
- 52 Right to personal security
- 53 Freedom from torture or cruel, inhuman or degrading treatment or Punishment
- 54 Freedom from slavery or servitude
- 55 Freedom from forced or compulsory labour
- 56 Equality and non-discrimination
- 57 Right to privacy
- 58 Freedom of assembly and association
- 59 Freedom to demonstrate and petition
- 60 Freedom of conscience
- 61 Freedom of expression and freedom of the media
- 62 Access to information
- 63 Language and culture
- 64 Freedom of profession, trade or occupation
- 65 Labour rights
- 66 Freedom of movement and residence
- 67 Political rights
- 68 Right to administrative justice
- 69 Right to a fair hearing
- 70 Rights of accused persons
- 71 Property rights
- 72 Rights to agricultural land
- 73 Environmental rights
- 74 Freedom from arbitrary eviction
- 75 Right to education
- 76 Right to health care
- 77 Right to food and water
- 78 Marriage rights

²https://www.veritaszim.net/sites/veritas_d/files/Constitution%20Updated%20to%202021.pdf. Also see the Important Note provided by Veritas in the online text, indicating that some of the provisions of the Zimbabwe constitution (as amended) are being challenged in court.

The Fundamental Human Rights and Freedoms as set out above apply to all persons, with the exception of the following that are only applicable to Zimbabwean citizens and permanent residents:

62 Access to information

66 Freedom of movement and residence (citizens only)

67 Political rights (citizens only)

75 Right to education

76 Right to health care

The right to equality and non-discrimination provides for the following:

(1) All persons are equal before the law and have the right to equal protection and benefit of the law.

(2) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

(3) Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.

Unless specifically indicated with the phrasing *every Zimbabwean citizen or permanent resident*, the fundamental human rights and freedoms (including labour rights) as set out in the constitution, apply in principle to migrant workers as well, regardless of their legal status. However, the constitution does have the following over-riding Limitations Clause:

86 Limitation of rights and freedoms

(1) The fundamental rights and freedoms set out in this Chapter must be exercised reasonably and with due regard for the rights and freedoms of other persons.

(2) The fundamental rights and freedoms set out in this Chapter may be limited only in terms of a law of general application and to the extent that the limitation is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom, taking into account all relevant factors, including—

(a) the nature of the right or freedom concerned;

(b) the purpose of the limitation, in particular whether it is necessary in the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest;

- (c) the nature and extent of the limitation;
- (d) the need to ensure that the enjoyment of rights and freedoms by any person does not prejudice the rights and freedoms of others;
- (e) the relationship between the limitation and its purpose, in particular whether it imposes greater restrictions on the right or freedom concerned than are necessary to achieve its purpose; and
- (f) whether there are any less restrictive means of achieving the purpose of the limitation

This would suggest that regulatory, policy and legislative measures that limit the rights of migrant workers and migrants more generally may be introduced, provided that such measures are consistent with the provisions of the limitations clause.

4.2 Labour Act [Chapter 28:01] (updated to 2019) ³

The Zimbabwe Labour Act (Chapter 28:01) initially came into effect in 1985. The Act has been amended several times with the latest amendments reported in 2019. The introductory part of the Act sets out the following:

- declare and define the fundamental rights of employees;
- give effect to the international obligations of the Republic of Zimbabwe as a member state of the International Labour Organisation and as a member of or party to any other international organisation or agreement governing conditions of employment which Zimbabwe would have ratified;
- define unfair labour practices;
- regulate conditions of employment and other related matters;
- provide for the control of wages and salaries; to provide for the appointment and functions of workers committees;
- provide for the formation, registration and functions of trade unions, employers organizations and employment councils;
- regulate the negotiation, scope and enforcement of collective bargaining agreements;
- provide for the establishment and functions of the Labour Court;
- provide for the prevention of trade disputes, and unfair labour practices;
- regulate and control collective job action; to regulate and control employment agencies.

³ https://www.veritaszim.net/sites/veritas_d/files/Labour%20Act%20updated%20to%202019.pdf

The stated purpose of the Act is as follows:

- (1) To advance social justice and democracy in the workplace by—
 - (a) giving effect to the fundamental rights of employees provided for;
 - (b) providing a legal framework within which employees and employers can bargain collectively for the improvement of conditions of employment;
 - (c) promoting fair labour standards;
 - (d) promoting the participation by employees in decisions affecting their interests in the work place;
 - (e) securing the just, effective and expeditious resolution of disputes and unfair labour practices.

Part II of the Act provides for the following, among others:

- Employees' entitlement to membership of trade unions and workers committees
- Prohibition of forced labour
- Protection of employees against discrimination
- Protection of employees' right to fair labour standards
- Protection of employees' right to democracy in the work place
- Unfair labour practices by employer
- Unfair labour practices by trade union or workers committee
- Duration, particulars and termination of employment contract
- Remuneration and deductions from remuneration
- Dismissal
- Sick leave, Vacation leave, Maternity leave and Special leave
- Right to form trade unions or employers organizations
- The establishment of a Labour Court.

4.3 Immigration Act [Chapter 4:02], 1979 (with amendments up to and including 2001) ⁴

The Immigration Act details the prescribed procedures and parameters in which a work permit is issued. The Chief Immigration officer may, on application of a person who wishes to engage in an occupation in Zimbabwe, issue a temporary employment permit. The temporary employment permit authorizes the person, in respect of whom it is issued, subject to the conditions specified to enter or remain in Zimbabwe for the period, not exceeding 5 years. A temporary permit may authorize the spouse and

⁴ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/57019/77022/F278925300/ZWE57019.pdf>

children of the person in respect of whom it is issued, to enter or remain in Zimbabwe for the same period.

The temporary employment permit is subject to the following conditions:

- the holder of the permit can only engage in the occupation specified in the permit and shall not engage in any other occupation;
- the holder of the permit must enter and remain in the service of that employer;
- the holder must leave the country on or before expiry of the permit; and
- the holder of the permit must surrender such permit to an immigration officer before leaving the country.

The Chief Immigration Officer may, on a written application of the holder of the employment permit, authorize the holder to cease to engage in the occupation specified in the permit, to engage in a different occupation from that so specified, and to enter into the service of another employer.

All employees, including foreign nationals enjoy protection under the Labour Act.

5 LABOUR MARKET INSTITUTIONS

5.1 Labour Court

The Labour Act [Chapter 28:01] provides for the establishment, powers and functions of a Labour Court as follows:

- (1) The Labour Court shall exercise the following functions—
- (a) hearing and determining applications and appeals in terms of this Act or any other enactment; and
 - (b) hearing and determining matters referred to it by the Minister in terms of this Act; and
 - (c) referring a dispute to a labour officer, designated agent or a person appointed by the Labour Court to conciliate the dispute if the Labour Court considers it expedient to do so;
 - (d) appointing an arbitrator from the panel of arbitrators referred to in subsection (6) of section ninety-eight to hear and determine an application; (d1) exercise the same powers of review as would be exercisable by the High Court in respect of labour matters.

6 RATIFICATION OF INTERNATIONAL INSTRUMENTS

Zimbabwe has ratified 26 ILO Conventions, of which all are in force.⁵ 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) | 27 Aug 1998 |
| | C087 | Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) | 09 Apr 2003 |
| | C098 | Right to Organise and Collective Bargaining Convention, 1949 (No. 98) | 27 Aug 1998 |
| | C100 | Equal Remuneration Convention, 1951 (No. 100) | 14 Dec 1989 |
| | C105 | Abolition of Forced Labour Convention, 1957 (No. 105) | 27 Aug 1998 |
| | C111 | Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | 23 Jun 1999 |
| | C138 | Minimum Age Convention, 1973 (No. 138) | 06 Jun 2000 |
| | C155 | Occupational Safety and Health Convention, 1981 (No. 155) | 09 Apr 2003 |
| | C182 | Worst Forms of Child Labour Convention, 1999 (No. 182) | 11 Dec 2000 |
| Governance Conventions | C81 | Labour Inspection Convention, 1947 (No. 81) | 16 Sep 1993 |
| | C144 | Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) | 14 Dec 1989 |

⁵ https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103183

Zimbabwe 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)

Zimbabwe has not ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁶

7 BILATERAL LABOUR AGREEMENTS

Zimbabwe has several bilateral agreements with South Africa, as follows:⁷

- Joint Commission for Economic, Social, Scientific, Technical and Cultural Cooperation, established in 1995
- An agreement between the countries' Ministries and Departments of Labour in 2009. The result was the establishment of the Beitbridge Labour Migration Centre; facilitation of dialogue in areas such as labour dispute resolutions, labour law reform and employment services; and- facilitation of interface between ex-Zimbabwe migrant workers in gold mines in South Africa and their previous employers and ex-employing agencies.
- An agreement (signed in 2013) on recruitment of Zimbabwean workers in South African farms in the Limpopo province. The aim was to end the exploitation of Zimbabweans working in South Africa farms and especially in the Limpopo Province as irregular migrants.

The Zimbabwe National Labour Migration Policy refers to the need for, and the value and importance of BLAs, but does not provide details on any agreements signed with other countries.

⁶https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=195&Lang=EN

⁷ Southern African Trade Union Coordinating Council (SATUCC), *Developing a Cohesive and Transformative Labour Migration Policy Framework for SADC*. Regional Research on Migration Report (2017)

8 FAIR RECRUITMENT OF MIGRANT WORKERS

An IOM Call for Applications/Expression of Interest for an Ethical Recruitment Consultant in 2022, identified some of the challenges pertaining to fair recruitment in Zimbabwe.⁸ The Call notes that there have been reports about the exploitation and abuse of especially migrant workers by labour recruiters and employment agencies – including instances of trafficking in persons for the purpose of forced labour.

The Labour Act (Article 114) provides for the registration of employment agencies as follows:

- (1) No person shall—
 - (a) conduct an employment agency; or
 - (b) charge or recover any payment or reward for or in connection with the procurement of employment through an employment agency; unless that employment agency is registered under this Act.
- (2) No person shall hold himself out as conducting an employment agency, unless that employment agency is registered under this Act.

However, the IOM Call notes that:

“The ...recruitment industry in Zimbabwe exists in a regulatory vacuum with limited oversight, weak implementation and enforcement of existing legislation, insufficient institutional capacity, and guidance for employment officers with respect to both facilitation and monitoring and enforcement.”

“There are significant loopholes in the existing labour laws, chief amongst them the failure to articulate the respective responsibilities of recruiting agents and final employers in providing safeguards against abusive practices, including forced labour.”

When opening the High-Level Tripartite Dialogue on Labour Migration Governance in Victoria Falls in 2022, the Vice-President of Zimbabwe indicated that Zimbabwe was in the process of finalising standard operating procedures to guide the recruitment of personnel from the country. He is quoted as follows:⁹

⁸ <https://zimbabwe.iom.int/sites/g/files/tmzbd11166/files/inline-files/cfa2022-02ethical-recruitment-consultant.pdf>

⁹ <https://www.herald.co.zw/zim-clamps-down-on-illegal-recruitment/>

“We have strengthened inter-agency cooperation to deal with unscrupulous recruitment agencies who seek to recruit our human capital through unethical means, which eventually subject labour migrants to human trafficking and exploitation.”

The Zimbabwe NLMP identified the need to “develop comprehensive guidelines for recruitment in line with ILO’s Private Employment Agencies Convention (C181, 1997) and the General Principles and Operational Guidelines for Fair Recruitment to prevent abuse of the process, violation of workers’ rights and improve regulation and monitoring of private employment agencies.”¹⁰

9 SKILLS RECOGNITION OF MIGRANT WORKERS

In 2018, the Government of Zimbabwe published the Zimbabwe National Qualifications Framework (ZNQF)¹¹ to:

- facilitate the mobility and progression of information within education, training and career pathways;
- provide for a fair assessment system, which measures achievements against clearly stated national standards; provide for and enforce the recognition of prior learning;
- setup a learning mechanism and system which is transparent and accountable;
- provide a platform for other foreign qualification authorities to compare the levels of Zimbabwean qualifications in relation to theirs.
- establish a dynamic and flexible system which can adapt quickly to new developments in the labour market, workplace, education and training;
- provide a SADC regionally compliant national basic, tertiary and higher education quality assurance system;
- provide and ensure policy coherence across different ministries and facilitate adequate involvement of stakeholders;
- take an overall role of quality assurance by: validating qualifications and/or standards;
- accrediting and auditing education and training institutions;
- and encourage education and training institutions to take responsibility for quality in collaboration with stakeholders

The ZNQF document is cognizant of the fact that Zimbabwe is part of the SADC Qualifications and Verification Network (SADCQVN) launched in 2017 and the SADC

¹⁰ Zimbabwe NLMP, pg 11

¹¹ <http://www.mhtestd.gov.zw/?wpdmpo=nqf-zimbabwe-qualification-framework#>

Regional Qualifications Framework (SADC RQF) and notes that the Framework shall harmonise Zimbabwean qualifications with those of the SADC Region.

10 SOCIAL PROTECTION OF MIGRANT WORKERS

Section 2 of the Zimbabwe NLMP on the protection and empowerment of migrant workers notes the following policy challenges:

- multiple abuses, malpractice and exploitation of Zimbabwean migrant workers, particularly women, in most destination countries especially in the face of globalization and the search for cheaper labour;
- limited awareness among migrant workers, especially female migrants, of their legal rights and social provisions in the host countries;
- irregular status, lack of travel documents and work permits among many Zimbabwean workers abroad, as well as foreign nationals employed in Zimbabwe;
- employment in “three D” (dirty, dangerous and degrading) jobs, which are characterized by the lack of employment contracts, exploitative wages and long working hours, lack of social protection, absence of unionization and lack of representation;
- weak complaints mechanisms (at origin and destination countries) to bring forward claims against abuse during recruitment, employment and termination of employment;
- some of the workers who end up being deported have no access to unpaid wages and savings and are unable to retrieve personal belongings from their homesteads; and
- emergence of challenges in migration, such as social exclusion, xenophobia and covert human trafficking processes that require both the sending and receiving countries to take explicit action.

The NLMP proposes the following policy interventions to address these challenges:

- enter into bilateral and multilateral labour agreements and MoUs with other countries particularly the major labour migrant receiving countries, such as Botswana, Namibia, South Africa and the United Kingdom for specific sectors where Zimbabwe has a comparative advantage such as nursing and teaching. Due diligence must be undertaken to avoid creation of skills gap in the country at the expense of exporting labour.
- disseminate information and raise awareness to the public about labour migration processes in the print and electronic media. Issues for discussions

include rights of all migrant workers, pre-departure trainings, discrimination, sexual harassment, smuggling and human trafficking, gender-based violence, xenophobia, HIV and AIDS and advice on referral processes for assistance.

- develop comprehensive national anti-discrimination legislation and provisions to prohibit and criminalize xenophobic discrimination and perpetrators of xenophobic violence.
- negotiate with receiving countries governments to put in place legislation that prohibit and criminalize xenophobic discrimination and perpetrators of xenophobic violence.
- set up mechanisms for migrant workers in the country of destination to lodge complaints about abuse and violations in workers' rights through trade unions and CSOs.
- issue regulations prohibiting retention of documents belonging to migrant workers.
- adopt a standard or model BLA checklist that should include, among other issues, living conditions for migrant workers, provision of payslips and decent employment conditions including social protection and prohibition of retention of documents.
- develop tools for pre-departure training that include financial literacy, language, occupational and generic health and safety, communicable diseases including HIV and AIDS, tuberculosis and malaria. The trainings can be undertaken by IOM, ILO, the Government, NGOs and recruitment agencies.

It is apparent from the NLMP that the concerns about the protection of migrant workers are primarily related to Zimbabwean migrant workers in other countries, such as South Africa and Botswana, though there are references to the fact that protection measures need to equally apply to migrant workers from other countries who are working in Zimbabwe.

REFERENCES

- Chikanda, A. & Crush, J. (2016). "The Geography of Refugee Flows to Zimbabwe." *African Geographical Review*, 35(1): 18-34.
- Crush, J. & Tevera, D. (Eds.) (2010). *Zimbabwe's Exodus: Crisis, Migration, Survival* (Ottawa: IDRC).
- Crush, J., Chikanda, A. & Tawodzera, G. (2015). "The Third Wave: Mixed Migration from Zimbabwe to South Africa." *Canadian Journal of African Studies*, 49(2): 363-382.
- Daimon, A. (2018). "'Totemless Aliens': The Historical Antecedents of the Anti-Malawian Discourse in Zimbabwe, 1920s–1979." *Journal of Southern African Studies*, 44(6): 1095–1114.
- Government of Zimbabwe (2020). *National Labour Migration Policy for Zimbabwe* (Harare: Ministry of Public Service, Labour and Social Welfare). At: <https://publications.iom.int/system/files/pdf/national-labour-migration-policy-for-zimbabwe.pdf>
- Groves, Z. (2020). *Malawian Migration to Zimbabwe, 1900–1965* (London: Palgrave Macmillan).
- ILOSTAT (nd). Statistics on Migrant Workers. At: <https://ilostat.ilo.org/topics/labour-migration/>
- UNICEF (2021). *Migration and Displacement Country Profiles (MDCP): Zimbabwe*. At: <https://data.unicef.org/resources/migration-and-displacement-country-profiles-mdcp/>
- Van Onselen, C. (1976). *Chibaro: African Mine Labour in Southern Rhodesia, 1900–1933* (London: Pluto Press, 1976).
- ZNSA (2022). *Population and Housing Census 2022 Report: Volume 1* (Harare: Zimbabwe National Statistical Agency).



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