



Migrant Domestic Workers in the SADC Region –

Intersecting decent work
with safe, orderly and regular
migration

June 2022

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Tara Polzer Ngwato, Amy Tekié, Kimani Ndung'u

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1. Executive Summary

In this report we compile the current status of policy and practice on migrant domestic workers in the Southern African Development Community (SADC) region.²

We take a holistic view, discussing the estimated numbers and demographics of migrant domestic workers, the policy environment in terms of both labour law and migration policy, the level of implementation and enforcement, and the working and living conditions in practice. This report was commissioned by the ILO under the Southern African Migration Management (SAMM) Project, and targets the following sixteen countries: Angola, Botswana, Comoros, the Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.³

Box 1: SAMM Project

The Southern Africa Migration Management (SAMM) project is a model of a ONE-UN approach collaborative effort between four UN Agencies with a development or humanitarian mandate: 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 funded by the European Union.

Its overall objective is to improve migration management in the Southern Africa and Indian Ocean region. It covers work in 16 target countries: Angola, Botswana, Comoros, Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.

Three Regional Economic Communities (RECs) are key stakeholders in SAMM's implementation: i) the Common Market for Eastern and Southern Africa (COMESA), ii) the Indian Ocean Commission (IOC), and iii) the Southern African Development Community (SADC).

One of SAMM's key project priorities is to support the formulation and realisation of RECs Labour Migration and Mixed Migration Frameworks.

SAMM's target groups include the following: migrant workers; Persons of concern (including refugees, asylum seekers, stateless persons, persons at risk of statelessness and Internally displaced persons (IDPs)); victims of trafficking, and smuggled migrants.

-
- 2 Policy and practice relating to migrant domestic work is a moving target. For example, South Africa launched its National Labour Migration Policy on 28 February 2022, by which time the research for this report had already been concluded, meaning a review of the policy could not be included.
 - 3 These countries are all member states of the Southern African Development Community (SADC).

Domestic work as a paid occupation is globally one of the occupations attracting international migrant workers, particularly women. Nonetheless, in the SADC region it is primarily carried out by nationals of each country. Cross-border migration for domestic work does exist, alongside internal rural-to-urban migration, due to the mix of low, middle and high-income countries in the region. South Africa, Botswana and Namibia are the primary countries of destination. The largest nationality migrating into domestic work in the region are Zimbabweans, with others from Angola, Eswatini, Lesotho, Malawi, and Mozambique. In addition, the Seychelles receive some migrant domestic workers from Asia, and the same can be expected in Mauritius over the coming years. Workers from Madagascar and Tanzania are recruited to the Middle East to find work, despite their nations' efforts to curtail such migration due to high levels of exploitation. Other countries in the region, such as Malawi, Zambia and Zimbabwe, are now also seeing pockets of informal recruitment of workers to the Middle East.

The report finds the following characteristics of migrant domestic work in the SADC region:

- **Intra-regional circulation:** Migration into domestic work is predominantly within the region and to neighbouring countries, rather than inter-continental or cross-regional. This means that migrant domestic workers are often similar to locals and employers (rather than distinct, as in high-income countries) in terms of race, culture, religion and language. The exceptions are Mauritius and the Seychelles, where 75% and 71% respectively of international migrant stocks are from Asia.



- **Uneven distribution of migrant domestic work in the region:** Most countries in the region neither host large numbers of migrants nor have large numbers of (paid) domestic workers. Domestic work as a share of employment among total employees, and among female employees, is low, even accounting for challenges in accurately estimating the numbers of domestic workers and migrant domestic workers. The exceptions are South Africa, which hosts an estimated 80% of the region's migrant domestic workers, along with Botswana, and Namibia.
- **Inclusion of domestic work in labour regulations:** All countries in the region include domestic work in the general labour laws and right to unionise, and nine countries have sector-specific labour regulation. However, in many countries, labour regulations for domestic work remain problematic due to gaps in regulation or specific legal exclusions and levels of enforcement are weak across the region. Most countries have unions or other forms of rights support for domestic workers, but these incorporate a very small percentage of workers, due to the isolation and vulnerability of workers, and under-resourced organisations.
- **High levels of irregular migration of domestic workers:** Irregular migration into domestic work is common globally, but there are specific patterns to this in the SADC region. As the primary destination countries also have high unemployment and a significant population of low-skilled workers, most do not issue work permits to domestic workers, with the exception of the Seychelles, and very recently, Mauritius. In South Africa, many migrant workers are eligible for asylum, which grants permission to work, and some have been regularised through the Lesotho and Zimbabwe special permit processes. In Botswana and Namibia, it is very difficult, although not impossible, for a migrant domestic worker to obtain a work permit.
- **Informal economies:** In many low-income countries the general labour rights regimes are either weakly defined or weakly enforced. High levels of informal work overall mean that advocating for labour rights for domestic workers and for migrant domestic workers is part of a wider context of informality rather than exceptionally unregulated sectors.

The report's findings on the estimated numbers and demographics of migrant domestic workers are that the SADC region is a relatively marginal region in terms of its share of global flows of migrant domestic workers, as per ILO estimates, but it is a major migration system within the Sub-Saharan African context. We estimate that in the range of 185,000 to 243,000 migrant domestic workers are employed in the SADC region, with up to 200,000 of those residing in South Africa. This is almost half of the total with at least 160,000 residing in South Africa population of migrant domestic workers in Sub-Saharan Africa (580,000) but represents only 2% of the estimated global population of migrant domestic workers (11,500,000) (ILO 2015b).

The process used for reaching these estimates is described in the report. The amount and quality of available data on migration and domestic work has improved markedly in the region in the last ten years through an increase in national official data sources that include both labour and migration information. However, there remain systemic challenges in interpreting such data as a reliable estimate of actual migrant domestic worker numbers and proportions in each country. These challenges are a result of the combination of the

predominantly informal nature of domestic work and migration patterns in the region, as well as constraints in the nature of available primary data sources, including household survey data and some forms of official data such as censuses and administrative data. Data constraints include categories of migrant domestic workers who remain invisible in the data because they are not recorded as migrants, as domestic workers or as workers of any kind. There are also sample size limitations when identifying and estimating any small sub-group in a population, especially sub-groups which require the cross-tabulation of multiple identity indicators such as nationality, employment sector and gender.

Regarding the migration policy environment, migration policy in the region is not coordinated among, and sometimes not even within, Member States. This is despite the SADC high-level agreements on Free Movement and Labour Migration. Only five countries have labour migration policies, including only one of the key destination countries for domestic work, Namibia. Several countries are however developing labour migration policies, including Botswana and South Africa, two other key destination countries for domestic work. As destination countries have internal demand for low-skilled jobs, in most cases migrant domestic workers are not issued with work permits, and most are living and working without either migration or employment documents. The exception is in South Africa, where many migrant domestic workers were regularised through the Zimbabwe Exemption Permit (ZEP) and Lesotho Exemption Permit (LEP), and others have been able to access asylum permits. However, the status provided through these categories is tenuous, and many workers remain undocumented. The number of undocumented migrant domestic workers in South African is likely to increase at the end of 2022, given that the ZEP was not renewed as of 1 January 2022 and the grace period to acquire other documentation runs out at the end of the year.

The policy environment for labour protections is more coherent, albeit also highly variable across countries. Every country in the region provides some rights and protection for domestic workers in their labour provisions. Domestic workers are included in all general labour laws, and nearly two thirds of member countries have legislation specific to domestic work. However, some of these labour provisions remain discriminatory against migrant domestic workers, some do not meet international benchmarks, and there are key gaps in coverage.

Eleven out of sixteen countries include domestic workers in at least one contributory social protection scheme, but migrant workers are excluded from these schemes in all but five countries. Despite legal inclusion, domestic workers are excluded from social protections in practice. Data shows that registration rates are less than 30% in all countries of eligibility, and in many countries drop below 5%, despite mandatory registration requirements.

The report's findings on policy implementation are that in practice most workers do not feel the legal rights to labour protection and social security, as levels of compliance and enforcement are very low. This is influenced by factors such as high levels of informality, familial employment relationships, child labour, social and economic vulnerability of rural and migrant women, the hidden nature of the work, and lack of political will to enforce and implement labour protections.

Migrant workers are granted labour rights in all countries in the region, but widespread lack of documentation creates a significant barrier to accessing justice and adequate remedy when those rights are violated. Informal recruitment agents exploit these vulnerabilities, resulting in trafficking, scamming, and theft, both within and across borders.

Policy development and policy enforcement in the interests of migrant domestic workers is supported by representative structures in the sector. The report finds that in almost every country in the region there is one or more trade union, domestic worker association, or migrant network that can offer rights support to migrant domestic workers. These organisations provide support for individual workers, as well as critical legal advocacy to improve workplace standards. However, only a small fraction of domestic workers in the region are involved in such organisations, leaving most workers isolated and without support.

This report was compiled in late 2021, eighteen months into the global Covid-19 pandemic. The pandemic impacted on all aspects of the migrant domestic worker context, as on all aspects of life generally, and so we document and reflect on its effects relating to national data generation and interpretation processes, migrant domestic worker employment rates, and migrant domestic worker social protections. The Covid-19 pandemic created a host of challenges for migrant domestic workers, from widespread dismissal and resulting destitution, to exacerbation of poor working conditions, to multiple human rights violations and virtual imprisonment.

The report engages with debates on the formalisation of the domestic work employment sector and the effects this is likely to have on migrant domestic workers in the SADC region. Domestic workers in the region meet some of the ILO (2016) indicators of formality in two dimensions: legal frameworks and social protection. When it comes to registration with public authorities and formal employment practises, they move to the informal end of the continuum (ILO 2016a). The ILO framework suggests three approaches to formalisation: extending the scope of the law, dissuading informality, and enabling compliance. Each of these are discussed as they apply to migrants in the region.

Finally, the report's recommendations relate to the mandate of the ILO Southern African Migration Management (SAMM) project (ILO 2020) to support:

- strengthened and informed decision-making
- improved policy environment and
- better management of labour migration and mixed migration flows

Our findings show that while migrant domestic workers can be found to some extent in all countries in the region, their distribution is so skewed that South Africa's migrant domestic worker population (upper estimate around 200,300) is more than four times as large as the migrant domestic worker population of all other 15 countries combined (upper estimate around 42,300). An improvement in the living and working conditions of migrant domestic workers in South Africa would therefore have by far the greatest impact on migrant domestic workers in the region in terms of absolute numbers of lives improved.

Our recommendations include all countries in the region to some extent, but with a greater emphasis on the main migrant domestic worker destination and origin countries.

An overarching recommendation is the importance of continuing with global, continental, SADC-level and country-level advocacy concerning the recognition of domestic work as making a crucial contribution to society and to the economy. Improving the evidence-base will support such advocacy, which can then increase the pressure for improved migration and labour protection policies and rights enforcement. The final crucial ingredient for improving living and working conditions for (migrant) domestic workers in practice is strong self-organising structures within which (migrant) domestic workers can advocate for improved conditions based on their own priorities and needs.

Recommendations on Evidence for Decision-Making include:

- Representing estimates for migrant domestic worker numbers as ranges or points with transparent margins of error, accompanied by careful communication on how to interpret the level of uncertainty in the data.
- Improving the quality of data relating to informal work by strengthening existing labour force surveys and similar survey data collection systems.
- Increasing the use of the SADC labour migration survey module, which has been designed but is not yet being sufficiently implemented across the countries of the region.
- Convening a working discussion with all national statistics offices in the region that are finalising plans for census data collection in 2022 and 2023 to discuss alignment of measurement of migrant domestic work.
- Deepening a training programme for NSO officials responsible for population statistics (which traditionally include migration) and labour statistics on the specifics of measuring and interpreting domestic work and migrant domestic work.
- Continuing with the programme of developing model methodologies for national domestic work surveys started in Tanzania and Zambia in 2012-13. The intent is not to replace National Statistics Office responsibility for conducting such surveys to provide regular data on this group of workers, but rather to design and test best practice in this complex area which takes migration dynamics into account.
- Convening a regional conference or seminar on (migrant) domestic work bringing together non-governmental actors, including labour unions, academics and NGOs, who conduct insightful research on domestic work and migrant domestic work, to support the coordination of research opportunities to inform migrant-specific labour rights conditions and concerns, along with sharing suggestions on methods for including migrants alongside locals in qualitative research on domestic work.

Recommendations on Migration Policy include:

- Supporting South Africa, as a major country of destination for migrant workers (including migrant domestic workers), to ensure that its recently released draft National Labour Migration Policy (NLMP) – as of February 2022 – is aligned with SADC protocols and its commitments in terms of the African Free Trade Agreement and addresses long-term regional interests alongside short-term domestic interests.
- Advocating with SADC countries to ratify the protocols on the Free Movement of Persons (2005) and on Employment and Labour (2014), or their successors as SADC seeks to update the latter in 2022.
- Working towards the adoption of a harmonised regional policy on labour migration based on implementation of the SADC Labour Migration Policy Framework (2014) and the Labour Migration Action Plan (2020-2025).
- Promoting a harmonised economic development policy, together with a labour migration policy as contributions to integration and collaboration within the region and continent for sustainable development and social justice and to prevent xenophobia and xenophobic violence.
- Increasing the information available to potential migrant domestic workers prior to migrating, and providing support should they end up in an abusive situation.
- Addressing the increasing pull of migrant workers from the region to the Middle East.

Recommendations on Labour Protections include:

- Ratification of the Domestic Workers Convention, 2011 (No. 189) - known as C189 - by all countries in the region which have not yet done so.
- Ensuring labour laws in Madagascar, Mauritius, Namibia and South Africa are aligned with C189.
- Developing regional standards on domestic work labour regulation by the African Union and SADC. As all countries in the region have some labour protections for domestic workers, a regional or continental agreement setting minimum regulatory standards would be powerful.
- Ensuring that all domestic workers, including migrant domestic workers, have rights equal to other workers, in line with the standards of C189.
- Consulting and engaging organisations of domestic workers and of employers of domestic workers on the adoption and amendment of relevant legislation, as well as on the most effective structures and procedures for labour law enforcement.
- Enforcing labour laws in domestic workplaces and putting in place proactive measures to hold employers accountable for compliance. Government must also specify the conditions under which labour inspectors have the right to enter the household where a domestic worker is employed.
- Facilitating and enforcing registration of domestic workers for social protection by the relevant national bodies, and repealing exclusions in

Eswatini, Malawi, and Zimbabwe. Migrant domestic workers should be included in contributory social protection schemes.

- Adapting national policies to include undocumented migrant workers in labour laws and enforcement procedures, and separating labour law enforcement and immigration law enforcement so that threat of deportation does not prohibit workers from reporting violations.
- Supporting collaboration amongst migrant workers support organisations to encourage partnerships across labour unions, membership associations, grassroots networks, and other civil society actors.

Recommendations for Future Research include:

- Supporting country-based broad studies on the numbers, nationalities, working conditions, and social protection coverage of domestic workers, including the quantification of the economic contribution of (migrant) domestic workers to the economy of destination and origin countries.
- Conducting policy research on how the African Continental Free Trade Agreement aligns with existing migration policy frameworks on the continent and its regions and can be used to motivate for improvements in the movement of people, portability of skills documentation and portability of social protection and welfare mechanisms across borders.
- Considering research on child labour in the domestic work sector and the experiences of child migrants.



2. Introduction

ILO estimates suggest that there are at least 67 million domestic workers worldwide (ILO 2022a),⁴ a number which is increasing steadily in both developed and developing countries.⁵ The vast majority of domestic workers are women – around 80% globally – although a substantial number of men work in the sector. Home-based paid care and domestic work is a crucial component of the modern economy, driven by several interacting patterns, including:

- an increase in women's employment and the subsequent transformation from single to dual wage-earning families;
- rapid population ageing, increasing life expectancy and lower fertility rates;
- tight fiscal policies and social policy budgets, weakened public care services, and government delegation of care services to families (ILO and Tayah 2016).

Box 2: Definition of Domestic Worker

The Domestic Workers Convention, 2011 (No. 189) defines domestic work as “work performed in or for a household or households”. This work may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, even taking care of household pets.

The economic and social nature and impact of domestic work is strongly gendered, in that most workers are women but also that female employers are enabled to join the labour force. In the African context, the recent increase in demand for domestic work has been driven by the greater integration of women into the labour market and an emerging middle class in urban centres (Segatti n.d.). Domestic work, which includes caring for children, the elderly and the sick, is also one of the few sectors where labour intensive manual work (which is skilled but does not require extensive technical training) is likely to be resilient to mechanisation in the Fourth Industrial Revolution. Migrants employed in the domestic work sector are essential workers in the COVID-19 response, playing vital roles in the care of children, sick and dependent people, as well as the maintenance of homes, which helps to prevent the spread of the virus. Despite their huge contribution to the functioning of households and the economy at large, they have been one of the groups most affected by the crisis (ILO 2022c).

⁴ This estimate does not include child domestic workers.

⁵ In 2015, the ILO developed a comprehensive methodology for generating global and regional estimates of international migrant workers and issued the first edition of *ILO global estimates on migrant workers: Results and methodology* (ILO 2015a), including global and regional estimates of international migrant workers and international migrant domestic workers, with reference year 2013.



Gendered views on domestic work influence the under-valuation of this work, despite its importance to the economy. Because it is perceived to be “women’s and girls’ work” it is considered unprofessional and is historically either low-paid or unpaid labour. Race and class discrimination further reinforce a depreciative view on domestic work, which perpetuates sub-standard working conditions. Analyses show that where grounds of discrimination intersect even further with migration-related characteristics – such as in the case of a young, undocumented migrant domestic worker in the informal economy – the risk of violence and harassment in the world of work is exacerbated (ILO 2019b). Extending labour and social protections to domestic workers, including migrant domestic workers, and eliminating the laws, policies and income differences that sustain the bad working conditions of women in this sector could significantly contribute to reducing gender inequality, poverty and social exclusion.

The implementation of institutional policies and protective labour regulations is, however, also challenging because of deeply gendered social structures and the legacies of racial and class hierarchies. Socialisation processes can survive legal reforms. The presence of adequate enforcement mechanisms, advocacy organisations and public perception work is therefore also vital for these policies and regulations to be reflected in employers' practices and workers' experiences.

This report provides the first in-depth consideration of migrant domestic work in the sixteen countries of the Southern African Development Community (SADC) Region: Angola, Botswana, Comoros, the Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe. This report was commissioned by the ILO under the Southern African Migration Management (SAMM) Project.

The SADC region is a relatively marginal region in terms of its share of global flows of migrant domestic workers, as per ILO estimates (ILO 2015b), described further below. We estimate that in the range of 185,000 to 243,000 migrant domestic workers are employed in the SADC region, with at least 160,000 residing in South Africa. The region therefore hosts almost half of the total estimated population of migrant domestic workers in Sub-Saharan Africa (580,000) but represents only 2% of the estimated global population of migrant domestic workers (11,500,000) (ILO 2015b).

The report is divided into three main sections focussing respectively on discussing:

- the demographics, migration patterns and estimated number, estimated number of migrant domestic workers in each country, alongside a discussion of the challenges with measurement and estimation in the regional data environment,
- the migration policy environment,
- the environment in terms of labour rights, levels of implementation and enforcement, and migrant domestic worker working and living conditions in practice.

The discussion section of the report makes two important contributions:

- **Understanding different forms and implications of informality:** Informal forms of labour and migration are not visible to the State but they are often highly structured and predictable to the people involved in them. By understanding the different forms of informal employment in different countries, we increase our understanding of the types of work and employment relationships which are likely to be undercounted and which forms of migration and labour policies are likely to be enforceable.
- **Focus on evidence-based decision-making:** in regions and countries characterised by high levels of informality, it is necessary to consider what forms and sources of evidence are needed to identify protection gaps and to address them, taking into account limitations in official data generation capacity, legal development and enforcement, and advocacy capacity in each country.

Finally, the report offers recommendations for each of the focus areas: data, migration policy and labour policy/protection.

The variation of experiences across the sixteen countries in the SADC region contributes a useful set of insights to global discussions on migrant domestic worker policies and measurement methods, and crucially provides inputs and recommendations to regional and country efforts at improving policy and practice in migrant and local domestic workers' protection.

There are several important dimensions relating to domestic work and migration which are not covered in this report but which we recommend for further investigation. These include:

- Child labour in the domestic work sector (ILO 2022a)
- The level of employment generation potential in the domestic work sector
- The formalisation of skills recognition in the sector as well as the formulation of regional model competency standards (RMCS) that recognise the skills of women and men in this sector and make them portable across countries (ILO and Tayah 2016)

2.1. Global and African Context

In this report we build on global debates on migrant domestic work while focusing on making these regionally relevant. Several major global and regional policy agreements relate to either domestic workers, migrant workers or both. At the global level, these include the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990; the ILO Migration for Employment Convention (Revised), 1949 (No. 97); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Private Employment Agencies Convention, 1997 (No 181); and most importantly, the ILO Decent Work for Domestic Workers Convention 2011 (No. 189). The 2030 Sustainable Development Agenda (SDGs) adopted by the United Nations, includes two targets to which the SAMM project contributes:

- SDG target 8.8 “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment”;
- SDG target 10.7 “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.

Furthermore, 11 out of 17 SDG goals contain targets and indicators that are relevant to migration, and Sustainable Development Goal 17.18 highlights the need for the availability of “timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts” (ILO 2018a). International conventions on child labour and its worst forms (including trafficking) also provide policy frameworks which are relevant to some aspects of the migrant domestic worker experience in many countries.

At a more programmatic level, relevant global processes include the Global Compact for Migration (IOM 2022), with its focus on regular migration, regular pathways, decent work and labour mobility; and the ILO Centenary Declaration for the Future of Work, which highlights ILO's human-centred approach to the future of work and puts workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies, including leadership in decent work in labour migration (ILO 2019c). Finally, the ILO adopted an internal Strategy in 2011 to make decent work a reality for domestic workers, following the adoption of C189.

At the continental level, the African Union's Migration Policy Framework for Africa and Plan of Action (2018-2030) includes a focus on labour migration, migration data and migration and development (AU 2018). The AU / ILO / IOM / ECA Joint Program for Labour Migration in Africa (JLMP), adopted by the Conference of Heads of State and Government of the African Union in 2015, provides a practical framework for achieving these aims (AU 2022). The 2019 ILO Abidjan Declaration "Advancing Social Justice: Shaping the future of work in Africa" is the continental version of the ILO Centenary Declaration for the Future of Work and lists promoting fair and effective labour migration governance amongst the priorities for shaping an African Decent Work Agenda (ILO 2019d).

Regionally, there are several relevant protocols and policies on migration, which we will discuss in detail in the section on migrant rights below. These include the SADC Protocol on the Facilitation of Movement of Persons (2005), the SADC Labour Migration Policy Framework (2014), the SADC Employment and Labour Policy Framework 2020-2030 and the SADC Labour Migration Action Plan (2020-2025). The SADC Protocol on the Facilitation of Movement of Persons (2005) has not yet come into force for an insufficient number of ratifying countries. There are no regional protocols addressing due to domestic work.

The ILO Decent Work for Domestic Workers Convention (No. 189, known as Convention No. 189), adopted in 2011, is particularly relevant for the current study. 2021 marked the tenth anniversary of Convention No. 189. According to an ILO report published in 2021 to review a decade of progress since C189, the last decade has seen significant efforts to translate the Convention into real improvements in working and living conditions for domestic workers through increasing the number of countries which have adopted the Convention and domestic laws that reflect the Convention's principles and standards, improving the measurement of domestic worker numbers and working conditions, and enabling domestic worker self-organisation and advocacy efforts in countries, regions and globally (ILO 2021). However, progress in many areas has been slow, which is a reflection of the pervasive perception that domestic work is not real work, and the challenges that governments face to implement and ensure compliance with laws in this sector. The intersectional forms of vulnerability experienced by domestic workers, including vulnerability based on gender, race, national extraction, education level, class, citizenship, migration status and informality, impact on both policy advocacy and enforcement efforts. When considered in relation to many other struggles to improve labour rights and conditions, ten years represents a short period of time and global domestic worker rights remain in an early phase of codification and standardisation.

Migrant domestic workers are recognised as a particularly vulnerable sub-group among domestic workers, compounding the described intersectional challenges faced by domestic workers with the insecurity of low-skilled migrant workers, predominantly women working in informal employment arrangements. Global advocacy on behalf of this sub-group is even more nascent than for domestic work overall. The ILO launched a Global Action Programme on Migrant Domestic Workers in 2013 and produced a report estimating global migrant domestic worker numbers in 2015 (ILO 2015b). Most of the efforts to document and improve migrant domestic worker conditions have focussed on high-income countries in the Middle East, Europe, North America and parts of Asia, where almost 80% of the world's migrant domestic workers are located (ILO 2015b). There has been comparatively little attention paid to intra-African migration into domestic work and specifically to the Southern African region, which is not as closely tied into intercontinental migration flows as Western, Northern and Eastern Africa. The current report is therefore part of a relatively new body of work on migrant domestic work in the SADC region.

An implication of this novelty is that rather than reporting on established indicators using established methodologies, we must consider practical and regionally appropriate ways of estimating populations and flows, assessing the quality of policies and evaluating the realities of living and working conditions. We engage directly with the challenges of measurement, policy making and policy implementation in contexts of labour force informality and highly variable state capacity. Methodologies, reporting conventions and policy templates developed for the high-income contexts in which migrant domestic work is globally prevalent are not easily transferable to other regional contexts, especially low-income countries.

The ILO report on Global Estimates on Migrant Workers (2015) estimated that there were 11.5 million migrant domestic workers in the world at the time, 17.2% of an estimated 67.1 million domestic workers globally. The estimated proportion of global migrant domestic workers working in the Sub-Saharan region is very low (5.0%), which is largely a function of a low proportion of migrant workers in general in the region (5.3% of the global population of migrant workers) (ILO 2015b). Expressed in terms of the Sub-Saharan region's domestic worker labour force, it is estimated that only 6.9% of domestic workers are cross-border migrants, with the rest being nationals of the respective country. In absolute numbers, the ILO's 2015 estimate, based on 2013 source data, was that there were 580,000 migrant domestic workers in the entire Sub-Saharan region (ILO 2015b). Notably, these estimates were necessarily based on incomplete 2013 data and only included estimates of migrant domestic workers who work in the Sub-Saharan region countries, not including migrants from Sub-Saharan countries who have migrated to other regions to work as domestic workers there. The ILO's updated 2021 estimate for the total number of domestic workers in the world is 75.6 million, but the migrant domestic worker estimates have not been similarly updated.

Sub-Saharan estimates of domestic workers, and especially of migrant domestic workers, are generated in the absence of good empirical data from many of the countries on the continent (ILO 2015b) and so more detailed explorations of sub-regional dynamics, such as in the SADC region, may contribute new insights which may change future continental estimates.

Migrant workers are distributed unevenly across Sub-Saharan sub-regions and countries, with some countries being predominantly migrant origin countries, a few sub-regional hubs attracting most of the migrant workers on the sub-continent, and many countries having neither large in- nor out-flows of migrants into domestic work. One of the continental migration hubs centres around South Africa, but as we will show, not all countries in Southern Africa and certainly not all member states in SADC are equally oriented around this one hub, with several other migration systems present in the region.

2.2. Southern African Development Community Regional Context

We seek to understand migrant domestic work in terms of specific regional and country context factors. Patterns and experiences of domestic work depend not only on the regulatory environment in a country, i.e., the protections and conditions created through migration and labour law, but also on the nature of the 'market' for domestic work. This 'market' of supply and demand is a function of a combination of social and economic conditions in destination and origin countries. Several dimensions which emerged from our review of literature and interviews with key informants include:

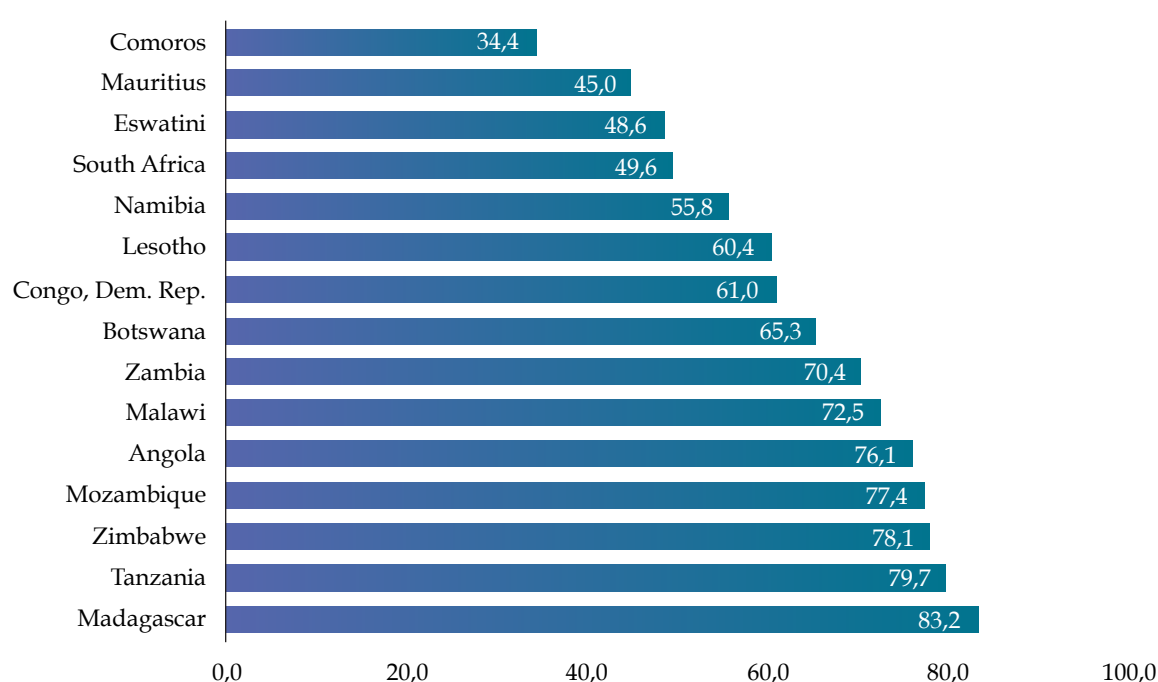
- Levels of inequality and the size of the middle class shape the size of employer demand and domestic work wage levels in urban areas based on employer affordability. The region includes highly varied economies, with the Seychelles and Mauritius categorised as High-Income countries; Angola, Botswana, Namibia, and South Africa as Upper Middle-Income; Eswatini, Lesotho and Zambia as Lower Middle Income; and Comoros, Democratic Republic of the Congo, Madagascar, Malawi, Mozambique, Tanzania, and Zimbabwe as Low-Income (UN 2014). High levels of inequality in Angola and South Africa, in particular, mean that there are large low-income populations in both countries, in addition to high-income urban elites.
- In some countries of the region, there are also large numbers of recorded domestic workers in rural areas, where there are overlaps with forms of household-based agricultural work which may not be captured as distinct activities in official statistics. Furthermore, many domestic workers are not captured in statistics due to the informal nature of employment and/or irregular migration status.
- Levels of income and inequality, as well as historical patterns, also shape the status of domestic work as 'fitting' employment for some nationalities. In the SADC region, nationals of Botswana and Namibia, due to relatively high national income levels and small populations, very rarely migrate into domestic work in neighbouring South Africa, in contrast to nationals of lower-income neighbours such as Eswatini, Lesotho, Mozambique and Zimbabwe. Zimbabwe's status in the region changed dramatically, from being a major economic centre and migrant destination country in the 1990s, to its current situation as a fragile state and the major migrant origin country in the region. Middle-income countries in the region, including South

Africa, Botswana and Namibia, have high internal inequality leading to competition for domestic work by nationals, causing tensions with migrant workers. Some low-income countries do not have histories or 'cultures' of migrating into domestic work, such as Zambians, while others, such as Malawians, have long-standing traditions since colonial times of providing domestic work services in many countries of the region. Anecdotal evidence suggests that perceptions about the 'suitability' of certain nationalities for domestic work remain important factors in shaping decision-making among both employers and those seeking employment.

- While many of the colonial-era migration and labour patterns have shifted significantly, colonial legacies still shape many aspects of the domestic work and migration environment in the region. Colonial-era legal traditions from Belgium, Britain, France, Germany, the Netherlands, and Portugal continue to shape policy formulation and legal norms. Colonial languages continue to confer status and access to opportunities. For example, some Tanzanian families prefer Malawian domestic workers over local domestic workers because they can teach their children to speak English. Settler colonies with histories of slavery and servitude, such as South Africa, developed patterns of live-in domestic service which remain in place in many ways, structured around race and class difference between employer and employee like in other high-income countries in the world. This contrasts with low-income countries in the region, including lower-income households within South Africa, where domestic workers are mostly constructed as 'family members' of the employer (including young people and often children from the same village or ethnic group). Rather than being seen as a form of employment, these relationships are structured as opportunities for poorer or more rural relatives to urbanise and improve their prospects through in-kind exchange (room and board in exchange for domestic work).
- New migration patterns have also developed. Domestic workers from SADC countries are migrating to the Middle East, through both formal recruitment channels and informal, irregular channels. Other anomalous patterns include, until recently, the recruitment of Filipina domestic workers by Angolan elites, as well as Chinese, Indian and Pakistani domestic workers whose employers are migrants from those countries to the SADC region. Finally, the flow of migrant workers from Asian countries, including the Philippines and Sri Lanka, to the Seychelles includes a small number of domestic workers. A 2021 change in the work permit regulations allowed migrants to Mauritius, most of whom are also from Asia, to be employed as domestic workers.

- Cultural and religious norms and practises around women working outside the home impact on levels of female labour force participation, which in turn impacts on the use of paid domestic work to carry out care and household tasks. This is a complex relationship, however, with high female labour force participation in some countries increasing domestic worker employment, while in other contexts, women remain at home but still employ domestic workers rather than completing those tasks themselves. Female labour force participation rates vary greatly in the region, as shown in Figure 1, from 34.4% in the Comoros to 83.2% in Madagascar (ILO 2019a).⁶

Figure 1: Female labour force participation rate (% of female population ages 15+), modelled ILO estimate for 2019, (ILO 2019a)



Overall, the sixteen countries of the SADC region are very diverse in terms of their size, income levels, economic structures, legal systems and languages, based on a number of factors including the colonial legacy and current regional alliances. As discussed further below, this translates into several distinct migration systems as well as highly uneven policies and practices relating to domestic work.

⁶ Note that data from the Seychelles is not included in ILOSTAT datasets

3. Methodology

We base our insights on information collected through a combination of methods. These include a review of recent literature on global, continental, regional and country-specific studies relating to domestic work and to migrant domestic work in particular. Relevant international, continental and regional conventions and policies were considered, and national legislation on migration management and labour rights were collated and analysed.

In terms of data sources, we compiled and compared existing ILO datasets and estimates of labour force statistics, ILO reports on estimations of domestic worker populations and labour force proportions, along with UN DESA estimates of international migrant stocks and source countries and World Development Indicator data sources country populations. Where available online or through national statistics offices, micro-datasets for the most recent labour force data and in some cases census data were consulted. The approach taken to interpreting available datasets and data sources is discussed in the section on Demographics, Migration Patterns and Estimates below.

Thirty-eight in-depth interviews were conducted with key informants in 13 countries, as follows: 17 trade unions and worker associations, 7 other civil society organisations and academics, 7 national statistics offices, 4 ILO staff and 3 migrant domestic workers. Finally, we conducted a



brief, non-representative survey of 132 migrant domestic workers in the key destination countries of South Africa, Botswana and Namibia.⁷ Respondents were identified and interviewed by domestic workers trained in research. Interviewers then uploaded the individual responses to Google Forms for summary and analysis. Respondents from South Africa were 60% Zimbabwean, 32% Malawian, and 8% Basotho. Respondents from Botswana were 100% Zimbabwean, and from Namibia were 95% Angolan and 5% Zimbabwean.

3.1. Definitions

In this report we use the same definition of domestic worker as the ILO 2021 10th Anniversary report, which is in turn based on the resolution concerning statistics on work relationships adopted at the 20th International Conference of Labour Statisticians (ICLS), wherein domestic workers are defined as: “workers of any sex employed for pay or profit, including in-kind payment, who perform work in or for a household or households to provide services mainly for consumption by the household. The work may be performed within the household premises or in other locations” (ILO 2018b, para. 104).

This statistical definition largely aligns with the legal definition provided by ILO Convention No. 189 (Article 1), although the convention is restricted to those in an employee relationship (including employees of agencies providing domestic services to households), whereas the ICLS definition expands the scope to also recognise those who work on a self-employment basis. The estimates in this report use the ICLS definition.

Box 3: Statistical Definition of Domestic Worker

Based on the statistical definition of domestic work and domestic workers, the ICLS established the following categories of domestic workers in employment:

- domestic employees, defined as all workers engaged directly as employees of households to provide services mainly for consumption by the household members, irrespective of the nature of the services provided including: (i) live-in domestic employees; (ii) live-out domestic employees.
- Domestic workers employed by service providers. Domestic workers employed by service providers are employees of economic units such as agencies that provide domestic services to households.
- Domestic service providers employed for profit. Domestic service providers employed for profit provide domestic services to private households as independent workers or dependent contractors. Workers in employment who provide services within or for a household or households, but who are not employed directly by a household, are considered to be domestic workers if the nature of the work performed mainly comprises domestic services such as cleaning, childcare, personal care, food preparation, gardening, driving and security.

⁷ The survey is not representative because of its small size and before convenience sampling through migrant domestic worker networks was used to identify respondents.

The estimates in this report do not include domestic workers under the age of 15.

When referring to migrant domestic workers, this report only relates to international migrants and not to people who migrate within their own country of nationality or usual residence.⁸ In some countries there are also large populations of refugees or people in refugee-like situations (Tanzania, Angola, and the Democratic Republic of the Congo), which are also included in the UN DESA migrant stock statistics for each country. The estimates provided in this report use each country's own migration measurement logic.

Countries in the region measure migration status in their official statistics using place of birth and citizenship, as per ILO guidelines. It is important to note that legal status or documentation has no effect on migrant status when using 'place of birth' as criterion.

4. Demographics, migration patterns and estimates

This section of the report provides estimates of the number of migrant domestic workers employed in each country, as well as a discussion of the main migration patterns into domestic work between countries. We start by discussing conceptual and methodological considerations when attempting to estimate the size of the migrant domestic worker population in the SADC region, arising from a combination of three factors:

1. How the regional nature of domestic work impacts on the reliability of labour statistics
2. How the regional nature of international migration impacts on the reliability of migration statistics
3. How the regional nature of official survey sources impacts on the ability to combine labour and migration statistics and extrapolate reliably from small survey samples to small populations of interest

All three, separately and in combination with each other, result in a high level of uncertainty concerning the extent to which official data sources in the region provide reliable information on migrant domestic work volumes and patterns. We therefore discuss what types of information and what level of specificity are needed for strategic evidence-based decision-making on key policy and protection concerns. Finally, we offer adapted estimates for

⁸ In this region, there are many ways in which internal migrants, i.e. those moving from rural to urban areas within the country or those moving across provincial or intra-country regional boundaries, face similar challenges as cross-border migrants who are engaged in domestic work. This may include a lack of identity documentation for rural to urban migrants which prevent the ability to access formal social protection systems, levels of labour abuse by employers due to class discrimination, and challenges of rural populations in accessing labour protection institutions and redress. Where relevant, we sometimes discuss the commonalities between cross-border and internal migrant domestic worker experiences in this report, but do not focus on internal migrants in our analysis of data, policies or practical protections.

each country and for the region as a whole, based on application of the methodological and strategic information considerations.

As noted in the methodology section above, the information for the current chapter is derived from a combination of official national sources and existing ILO and UN DESA datasets of country-level estimates for domestic worker numbers and migrant stocks, respectively. Several recent ILO reports, notably the 2021 Domestic Work report (ILO 2021), developed and applied advanced estimation techniques to official data sources to produce estimated domestic worker numbers globally, regionally and at country level. We do not attempt to replicate or adapt such estimation techniques but rather focus on understanding the contextual factors in the nature of domestic work and migration in the region and in each country which make the official data partial and biased in different ways.

Working with official data is important and provides useful information on relative numbers of domestic workers, numbers of migrants in a country and movements of migrant from one country to another. There are three conditions under which conventional official data sources can provide fairly accurate estimates of overall migrant domestic worker volumes:





- largely formal employment conditions,
- controlled migration flows (such as islands) and/or
- regular data collection exercises which measure both labour force and migration status.

Most countries in the SADC region, and indeed in Africa, do not fulfil all three or even one of these conditions. In these contexts, official data sources on domestic work, on migrant stocks and on estimated combinations of the two may misrepresent actual populations of interest by large margins. It is possible for official data to provide reliable evidence on these populations, but it requires regular data collection exercises that include questions on informality, appropriate procedures to ensure enumeration of domestic workers in households and survey sample and weighting procedures that ensure representative inclusion of migrants and domestic workers. As an example, the ILO has developed the SADC labour migration survey module as a simple and regionally standardised module of migration questions in labour force surveys (and equivalent multi-purpose surveys) as part of the effort to improve regional evidence-based decision-making on migration and labour in general.

Tanzania provides an example where 2021 ILO estimates of domestic worker data based on official statistics estimate 309,595 employed domestic workers (ILO 2021), but a 2016 ILO study based on 2013 data and a dedicated survey estimated 1,087,000 employed domestic workers and 1,700,000 people carrying out activities which amount to domestic work even though they are not considered “employees” due to having a distant family relationship or other informal position in the family and

household (Kiaga, Ackson, and ILO Country Office for United Republic of Tanzania 2016). The 2016 report estimated that 0.19% of domestic workers in the country are cross-border migrants but does not provide much detail on the extent to which the survey methodology was designed to identify migrants.

Our focus on using data for evidence-based decision-making emphasises three points about the nature of evidence:

- The most useful type and format of the evidence depends on the nature of the policy challenge or the problem to be solved. High level global estimates for the number of migrant domestic workers in a region or the world are useful to raise visibility for a type of vulnerable group. More detailed statistics are however necessary for taking informed policy decisions at a regional or national level. The absolute number of migrant domestic workers in a country is important when prioritising activities to protect the maximum number of migrant domestic workers. Yet the relative size of the migrant population to the local population (or the local domestic worker population) is what is likely to motivate national policy making. A bilateral agreement between countries on migration regularisation, labour rights or social protection portability would require information about a specific nationality's involvement in domestic work, rather than all migrants.
- Data which claims to be authoritative in its source or through its format can have a powerful impact on decision-making and resource allocation. Those who generate and interpret such data therefore bear a responsibility to consider who is included as well as who is excluded by the data. Statistics which take the form of definitive estimates and exact numbers, even if they include known large margins of error, can serve to make those groups who are excluded from official datasets even more marginal by also excluding them from evidence-based decision-making discussions.
- Generating good quality representative survey data is an important element of improving policy making and advocacy, however most surveys face methodological limitations which tend to undercount the most vulnerable members of society and of the labour force. For forms of largely informal employment like domestic work, survey data can be useful for illustrating the lower bound of an issue and can provide a point of departure for policy making but policies should aim to go further than what can be measured because they have a responsibility to protect not just 'the most', but also the most vulnerable.

These considerations relating to data accuracy are well known in discussions of domestic work and labour migration (ILO 2015a). We follow in the tradition of combining careful triangulation of multiple quantitative information sources with qualitative information on the experiences of (migrant) domestic workers, which enables transparent qualitative judgments on the interpretation of the quantitative data sources. It also links statistical estimates with discussions of policy environments and practical experiences of domestic worker and migrant organisations and individuals, so that recommendations are informed by multiple perspectives on a country and region. While exact estimates are proposed for some countries, based on a sufficiency of evidence, the focus of the data component of this study is rather on offering realistic upper and lower range estimates of migrant domestic worker numbers for each country and thereby categorising countries into different types of migrant domestic worker destination and/or origin countries.

4.1. Context Considerations: how the nature of domestic work and migration in the region impacts on statistics

Challenges in enumerating domestic workers are well documented globally (ILO 2021) and our review of statistical reports and interviews with national statistics offices confirm that many apply in the SADC region. Censuses and labour force surveys capture information which allows for employment relationships to be coded as formal or informal employment but rely on workers to report their own employment sector and type (ILO 2018b). Factors which reduce the likelihood of such self-reporting include:

- the prevalence of part-time or casual domestic work, generally and among migrant domestic workers, while “employment-related questions used to identify domestic workers usually focus on the main job, excluding ... domestic work performed in addition to the main job” (ILO 2018b). Lesotho is one of the few countries in the region which report on secondary employment in their labour force surveys, but Lesotho’s reports only include formal second job, which is unlikely to capture the full spectrum of domestic work activities (Lesotho Bureau of Statistics 2021).
- domestic workers being seen as part of the extended family, whether or not they are actually relatives, and being paid in kind (free accommodation and food, etc.). Survey respondents may therefore not report themselves as being employed as a domestic worker or be aware of having that status. This is especially the case with very young domestic workers, as employers may be aware that their employment is illegal and may pressure the child worker into claiming to be a family member. This is more likely to occur with internal migrants (e.g. young women coming from rural areas to work in urban homes of ‘family members’) but may also be part of international migration patterns in border areas or countries with cross-border ethnic groups and long-standing circular migration patterns.
- the low social status of domestic workers in many contexts, meaning some domestic workers may be reluctant to disclose their activity to a government official out of shame.
- where migrant domestic workers have an irregular migration status, they may be reluctant to disclose their employment status to a government official.

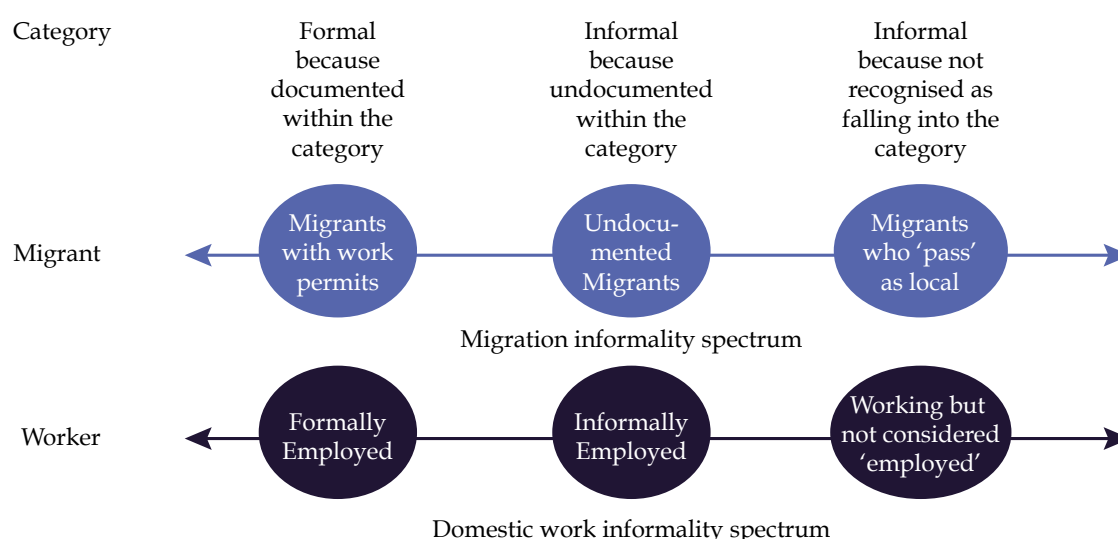
The enumeration of migrant domestic workers also depends on how migration status is identified. Long histories of intra-regional migration impact on the nature of migrant identities and migration statistics, along with each country’s citizenship rules and naturalisation laws. Firstly, different ways of measuring migration status can result in radically different results and bear different implications. For example, the 2019 Zimbabwean Labour Force and Child Labour survey recorded both citizenship status and country of birth. It found 1,721,806 non-citizens, but only 253,775 people born outside the country, with over half of them born in South Africa (Zimbabwe National Statistics Agency 2020, 215ff). The number of non-citizens in the country is therefore potentially much larger than the number of ‘recent migrants’ (based on country of birth). No combined analysis is provided so it is not possible to know how many of those born outside the country are in fact Zimbabwean citizens returning to their family’s country of origin. Similarly, the 2018 census report for Madagascar identifies 33,187 non-citizens, but 12,712 persons born outside the country. If we are interested in measuring migration status because it is assumed to be an added level

of vulnerability for domestic workers, then a domestic worker who was born in the country but does not have citizenship faces different challenges to one recently entering the country. The 2019 Zimbabwean Labour Force and Child Labour survey furthermore only reports on the employment status and industry of the 30,468 migrants considered “labour migrants”, not on non-citizens more broadly.

Secondly, to identify migrant domestic workers, not only must survey respondents choose to report to a survey enumerator that their occupation and industry are domestic work, they must also choose to report their own migration status (in response to questions about country of birth or nationality). Given that most migration into domestic work in SADC countries is intra-regional and from neighbouring countries with similar race, ethnic and language groups (excepting Mauritius and the Seychelles), a significant proportion of migrant domestic workers may be able to ‘pass’ for local towards a surveyor. Furthermore, there are situations where people born on the other side of an official border may not consider themselves to be migrants. There are many border areas in the SADC region with cross-border ethnic communities. While people moving across these borders, including in some cases to work as domestic workers in the rural border areas or towns, may legally be migrants, they may not consider themselves as such and therefore not report themselves as migrants when surveyed. Some examples of such border zones include South Africa/Mozambique, South Africa/Lesotho, South Africa/Eswatini, Eswatini/Mozambique, Malawi/Zambia, Zambia/Zimbabwe, Zimbabwe/Mozambique, Malawi/Tanzania, Burundi/Tanzania, and Angola/the Democratic Republic of the Congo.

Different countries have migration patterns and domestic work patterns which combine different levels of formality and informality. This, in turn, results in different proportions of the migrant domestic worker population being invisible to statistics.

Figure 2: Migration and Domestic Work Informality Spectrums (authors' own diagramme)



A simplified migration informality spectrum runs from migrants who are documented and formally permitted to work, through undocumented migrants, to migrants who have integrated in the country sufficiently through ethnic, borderland or family networks to 'pass' as local. A simplified domestic work informality spectrum runs from formally employed through informally employed to occupied in a household without the activities being considered 'work'. The 'passing' and 'not work' ends of both spectrums are largely invisible to surveys purporting to measure migration status and labour status. In some countries, like Mauritius, the number of people on the informal ends of both spectrums are small, although there are migrants with permits to work in other sectors who are doing domestic work instead and would therefore be invisible to domestic work statistics. In contrast, in South Africa there are likely to be large proportions of both domestic workers and migrant domestic workers who fall into the invisible ends of both spectrums. A 2016 study of domestic work in Tanzania provides useful insights into the domestic work informality spectrum, by finding that more than half of the people doing domestic work were in fact not considered 'employed' or did not consider themselves as such and so were invisible to statistics (Kiaga, Ackson, and ILO Country Office for United Republic of Tanzania 2016). Given the scope and focus of that study, little attention was paid to the invisible end of the migration informality spectrum and so the estimate that 1% of domestic workers were migrants is also likely to be an undercount.

The design of most labour force surveys takes informal work into account by asking sequences of questions specifically designed to identify forms of work which the respondent may not consider as employment.⁹ The 'not work' end of the domestic work informality spectrum is therefore likely to be small if a country's labour force survey is well designed in terms of the questions and interpretation of responses. Other common measurement challenges which impact on the reliable measurement of migrant domestic workers include:

- samples not explicitly designed to target areas with a high prevalence of migrants
- coverage that excludes migrants who do not live in private households and who do not meet the criteria to be usually resident in the country
- under-reporting of live-in domestic workers as household members
- deliberate under/or misreporting due to irregular status in the country
- non-participation of migrant domestic workers due to language barriers
- mis-reporting due to reliance on proxy respondents, such as household heads/ employers not wishing to be identified as employing a migrant or employing a domestic worker informally

It has taken many years of advocacy for domestic work to be considered an employment industry alongside other formal forms of employment, and so domestic workers are generally reported as a percentage of the overall employed labour force in the country. Furthermore, migrant domestic workers are reported as a percentage of the overall number of domestic workers in the economy. However, in addition to challenges in establishing the numerator for (migrant) domestic workers, the appropriate denominator for calculating

9 19th ICLS Resolution defines employment as work done for pay or profit, in cash or kind. Labour Force Survey Questionnaires based on 19th ICLS Resolution are designed to capture employment activities, even if they are done for only one hour in the reference period, and even if they are only part time and not the job of choice, and even if they are paid in kind.

the appropriate percentage is complex. This is because domestic work lies uncomfortably between common categories in labour force statistics. As noted above, some people doing care and cleaning work in households (especially those paid in kind rather than in cash) may not consider this as employment and/or the people they work for may not consider it employment and so they may not be captured in statistics measuring employment. They may also not consider themselves unemployed and so would not even be reflected in the overall labour force numbers. Many domestic workers work part time or on a casual basis, and so may consider themselves unemployed and looking for work, or they may consider themselves discouraged work-seekers (not considering their part-time domestic jobs to be real and desirable work and having given up on finding anything else that is considered 'real' work).

4.2. Context Considerations: official data source availability and reliability

Beyond the measurement concerns listed in the previous section, the availability of regularly updated labour and migration statistics in the African region is a much broader challenge. Even general population data is not regularly collected in all countries.

Population census data is a crucial source for estimating migrant domestic workers because it covers both labour and migration status, often includes migrant nationality information, and provides a large enough dataset to allow for reliable disaggregation by industry, occupation, migration status, gender and even sometimes nationality. However, given the usual ten-year cycle for census data collection, such data can quickly become out of date, especially when countries undergo major crises or wars that shift employment and migration patterns, such as Zimbabwe in the 2000s. One of the effects of Covid-19 was to delay the planned 2020 round of population censuses in a number of countries in the region, including South Africa. Census preparation and data collection are currently (2021 and 2022) underway in Angola, Botswana, Mauritius, Namibia, South Africa, and the Seychelles, joining the relatively recent censuses completed in Eswatini (2017), Zimbabwe (2017) and Malawi (2018), which will improve the level of data availability on migrant domestic workers in the region in the next few years. In addition, census questionnaires traditionally do not include a detailed enough labour market module. The ILO has introduced a labour market questions module for censuses which allows countries to produce key labour market indicators based on the 19th ICLS Resolution on Work, Employment and Labour Underutilization. Countries in the SADC region are being encouraged to use this module in their census questionnaires.

Historically, data sources which combined employment and migration data outside the census cycle were rare, and state capacities to measure migration regularly are known to generally be weak across Africa. "In 2017, the African Union Commission produced the first edition of the Labour Migration Statistics in Africa and the report showed that there is a lack of capacities at country and regional level to produce, collect and disseminate timely and quality data on Labour migration in Africa" (AU and Statistics Sweden 2020). The 2015 ILO report, which for the first time estimated migrant worker populations globally, noted that among SADC countries, only Malawi, South Africa and Zambia had all the disaggregated

input data on domestic workers, migrant workers and migrant domestic workers to enable empirical migrant domestic worker estimates (ILO 2015b).¹⁰ As shown in Table 1, there has been some improvement since 2015, with eight of the sixteen countries running surveys that include both employment and migration data and reporting on employment per industry (including domestic work) and migration status. South Africa included a migration module in its 2017 Quarterly Labour Force Survey (Q3) but has not done so since. In Mauritius, the most recent migration data is from the 2011 census. Angola, Comoros, the Democratic Republic of the Congo, Mozambique and Tanzania generally have weak data environments, although the planned 2022 census in Angola will assist.

Table 1: Most recent national data sources for labour and migration statistics

Country	Year	Survey Name	Domestic Work	Migration
Angola	2009	Inquérito Integrado sobre o Bem-estar da População	x	
Botswana	2020	Quarterly Multi-Thematic Survey	x	x
Comoros	2014	Enquête sur l'emploi et le secteur informel aux Comores	x	
The Democratic Republic of the Congo	2012	Enquête sur l'emploi, le secteur informel et sur la consommation des ménages (Enquête 1-2-3)	x	
Eswatini	2017	Census	x	x
Lesotho	2019	Labour Force Survey	x	x
Madagascar	2018	Census: Recensement General de la Population et de l'Habitation	x	x
Malawi	2018	Census	x	x
Mauritius	2020	Enquête Régionale Intégrée sur l'Emploi et le Secteur Informel	x	
Mozambique	2015	Inquérito aos Orçamentos Familiares	x	
Namibia	2018	Labour Force Survey	x	x
Seychelles	2019	Labour Force Survey	x	x
South Africa	2021	Quarterly Labour Force Survey	x	
Tanzania	2014	Labour Force Survey	x	
Zambia	2018	Labour Force Survey	x	
Zimbabwe	2019	Labour Force and Child Labour Survey	x	x

While an increase in countries with regular sample surveys measuring both employment, industry and migration indicators is welcome, there are still challenges in interpreting the findings of such surveys in relation to migrant domestic work. In addition to the caveats discussed above about forms of domestic work and migration which tend to remain invisible to such surveys, there are also technical statistical limitations to reliable results interpretation related to survey sample size and sample designs which are not optimized to produce reliable statistics separately for international migrants

¹⁰ Note that Seychelles not mentioned in this report

The South African case is an ideal statistical case in that the QLFS has a large sample (69,260 for QLFS 2017, Quarter 3, which includes the migration module), and the country has both a large domestic work sector (5.2% of total employment) and a large proportion of migrant domestic workers (12% of domestic workers). In the 2017 QLFS Q3 there are only 59 migrant domestic workers directly identified in the sample, of whom 9 are male and 50 are female. Extrapolating from a sample of 9 to a proportion of the total country population is not reliable. Attempting to disaggregate further by nationality (which was not collected in this dataset) or age group would make these samples even more unreliable. Most countries have labour force surveys and other multi-functional household survey samples in the range of 10,000 - 12,000 and with smaller domestic worker and migrant domestic worker populations, making the absolute enumerated number of migrant domestic worker even smaller. Many LFS sample designs do not include measures which could improve coverage of migrant workers, including oversampling geographical areas with known high populations migrant workers.

The Covid-19 pandemic introduced additional challenges for reliable data collection in the region (AU and Statistics Sweden 2020).¹¹ A number of scheduled data-collection exercises were delayed, such as the census in South Africa and the bi-annual Labour Force Survey in Namibia. Other data collection exercises were shifted from face to face to telephonic interviews, using contact details from previous survey iterations (e.g. labour force and multi-purpose surveys in South Africa and Mauritius). Given the marginal position of live-in (migrant) domestic workers in many households and in society in general, telephonic data collection is likely to further exclude and therefore underestimate this group whether they are targeted through sampling of their employers or themselves as survey respondents.

Given the challenges with official datasets, are there alternative data sources which could be used for reliable estimation of migrant domestic worker numbers and characteristics? The levels of informality in the domestic work sector generally, and especially among migrant domestic workers, mean that administrative data is not available or not useful. Most countries in the region do not have any opportunities for employers to register migrant domestic workers for social benefits. Even in countries like South Africa which have comparatively developed unemployment insurance registration for domestic workers (as discussed further in the section below on labour rights), Unemployment Insurance Fund (UIF) records are more a reflection of employer preference trends around employment formalisation than an indication of the underlying number of workers.

One alternative is dedicated surveys which either seek to measure migration and include employment information (Human Sciences Research Council 2011),¹² or measure domestic work and include migration information. Examples of the latter include surveys conducted in Tanzania and Zambia in 2012-13 within the framework of the ILO Global Strategy for Action: Making decent work a reality for domestic workers (Kahayarara 2013; Chibuye

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- 11 In April 2020, the African Union Commission instituted an online survey with all its member states to assess the possible impact of the pandemic on the production of migration statistics and also to collect proposals for solutions in order to contain the negative impact of this pandemic on the production of migration statistics in Africa. The survey includes countries covered in this report: Angola, Botswana, Comoros, DRC, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe
- 12 This study is not reviewed here since it is out of date and was based on a small sample (2000 respondents) only covering two provinces in the country.

and Siyota 2013),¹³ which also produced preliminary guidelines for designing and running national surveys of domestic workers (Mehran 2014). While these two studies provided invaluable insights into the overall estimates of domestic work in the countries and into working conditions, they also struggle to provide much information on migrant domestic workers. The Tanzania study estimated that 0.19% of domestic workers are migrants¹⁴ and the Zambia study does not make any mention of migrant domestic workers at all. This may be because they were piloted in countries with very small migrant domestic worker populations. It would therefore be valuable for this dedicated survey programme to be expanded into countries in the region where migrant domestic work is more prevalent, such as South Africa, Botswana and Namibia, and for new studies to ensure the sample design includes measurement of this group as a priority, for example by targeted areas with a high prevalence of migrants.

While such dedicated surveys can provide important methodological insights and lessons for best practice, as well as generating a 'baseline' against which the coverage reliability of other datasets can be judged, they are not a sustainable approach for the regular production of data about this group of workers. The improved design of regular labour force surveys is the best options for this aim.

There are also qualitative studies on domestic work which do not directly provide inputs to quantitative estimates but do assist with the broad profiling of domestic workers. Examples are available for Mozambique (although only covering the capital Maputo) (Castel-Branco 2012) and the Democratic Republic of the Congo (IDAY, CATSR, and WCP 2015). These qualitative studies, however, also do not provide much information on the migration status or nationality profiles of domestic workers, which may reflect the absence of such workers in these contexts, or it may reflect on the focus taken by the researchers. Increasing awareness among researchers and organisations working in the domestic worker section concerning the specific needs of migrant domestic workers may be useful in ensuring inclusion of migrant domestic worker issues in future qualitative studies.

4.3. Regional Migration and Domestic Work Patterns

We now apply the considerations discussed so far to the estimation of migrant domestic worker numbers in the SADC region. Patterns in migrant domestic work are a combination of the following:

- Migration patterns, with dominant migrant destination and migrant origin countries
- Specific nationalities of migrants who tend to engage in domestic work more than others
- Domestic work patterns, with countries that have larger and smaller markets for domestic work

13 These surveys were conducted by the ILO Branch for Inclusive Labour Markets, Labour Relations and Working Conditions (INWORK) and ILO Country Offices for Tanzania, Kenya, Rwanda and Uganda and for Zambia, Malawi and Mozambique.

14 We note that the sample survey on which this estimate is based had a sample of less than 1900 respondents and so this % estimate is based on less than 5 migrant domestic worker respondents, which is not enough to provide a reliable estimate at a national level.

We summarise available information on each of these dimensions in turn before considering country by country data combining labour and migration information.

The sixteen countries of the SADC region have an estimated population of 363.2 million people and 5.9 million international migrants at mid-year 2020 (UN 2020).¹⁵ South Africa hosts by far the largest number of migrants in the region, with an estimated 2.9 million in mid-year 2020, with the Democratic Republic of the Congo (952,871) and Tanzania (426,017) also hosting large numbers (UN 2020).¹⁶ The latter two countries mostly host refugees, however, and while some refugees may be informally employed, including in domestic work, many are isolated in camps and therefore have limited access to this employment market.

There are three distinct labour migration systems in the region, with the main one flowing into South Africa from its immediate neighbours as well as Malawi and to some extent Tanzania. Within this Southern African migration system there are also secondary migration flows into the relatively well-off economies of Botswana and Namibia. In addition to being linked into the Southern African migration system towards South Africa, Tanzania is also strongly linked into the East African migration system. The second system links Angola and the Democratic Republic of the Congo closely with each other, as well as West Africa (for Angola) and East Africa (for the Democratic Republic of the Congo). Third, the island nations of the Comoros, Mauritius, Madagascar and the Seychelles provide a distinct set of migration dynamics, with strong ties to each other and to Asia above connections with their mainland neighbours. Mauritius and the Seychelles have 75% and 71% of their migrants, respectively, originating in Asia (UN 2020).¹⁷ Comoros and Madagascar have a migration system flowing in both directions between them, with very little interaction with other countries in the region (UN 2020).¹⁸

However, overall migration patterns are of limited value when considering migrant domestic worker patterns since not all migrants are equally likely to be involved in domestic work. Some countries have large migrant populations which originate from outside the continent like Mauritius (89%), Seychelles (82%), Madagascar (66%), Lesotho (50%) and South Africa (35%) (UN 2020). While some Asian migration into the Seychelles and Mauritius may include domestic workers (as discussed later in the report), in mainland countries migrants

15 The unedited DESA 2020 estimates of international migrants for the region come to 6.4 million, but this includes 500,000 migrants in Angola who are categorized as 'other' in terms of region and country of origin and who are not corroborated in other migrant stock estimates, such as the 2015 World Development Indicators estimates for Angola (which record 140,000 international migrants). In this report we have therefore reduced the estimate of international migrants hosted in Angola to 154,000 and adjusted the regional total to 5.9 million accordingly.

16 Estimates of international migration stocks and flows disaggregated by both destination and origin country are useful when considering which migrant populations are most relevant for domestic work estimations, but it is also important to note that there are data quality challenges in these international datasets. One example is that the DESA data records 1.4 million migrants in the SADC region as of unknown or 'other' country of origin in 2020, mostly hosted in Angola (501,897) and South Africa (643,999). If these were allocated to either Sub-Saharan or SADC migrant domestic worker-origin countries, they could increase the former by a quarter and the latter by half. In the current report, the unclassified Angolan migrants have been excluded from country and regional migration totals, since they do not tally with other data sources (e.g. the WDI 2015 migrant stock estimates). WDI 2015 estimates 140,000, which would corroborate the 154,000 estimate.

17 Various reports have described these system, but this description is based on DESA data on international migrant stocks and countries of origin for 2020.

18 Various reports have described these system, but this description is based on DESA data on international migrant stocks and countries of origin for 2020.

originating from outside the continent are highly unlikely to be active in domestic work.¹⁹ In the 12 mainland countries, therefore, the 4.4 million migrants of Sub-Saharan origin are a more relevant number than the 5.9 million overall international migrants as a potential pool from which to consider migrant domestic worker numbers.

Even within this continental pool, there are many nationalities who do not enter domestic work, based either on relative income and skill levels, status perceptions and historical patterns, or exclusion from the labour force based on their refugee status and isolation in camps. For example, South Africans, Batswana and Namibians who leave their countries for other countries in the region do so mostly as professionals, not as low-skilled workers.²⁰ Zambians, even though from a low-income country, also are not active as domestic workers in significant numbers in other countries.²¹ In addition, most of the migrants hosted in the Democratic Republic of the Congo, Angola and Tanzania are refugees (largely from outside the SADC region: Central African Republic, South Sudan and Burundi), often residing in camps and therefore only partially integrated into the formal or informal labour forces in those countries. If we consider these country dynamics and only include migrants from known migrant domestic worker origin countries in the DESA 2020 migrant stock estimates for the SADC region, we are left with a total of R2.7 million migrants, 44.7% of whom are female.

The primary flows of migrant domestic work within the region include:

- Zimbabweans, Mozambicans, Malawians, Basotho, and Liswati into South Africa,
- Zimbabweans into Botswana,
- Angolans and Zimbabweans into Namibia, and
- Malawians into Tanzania.

External flows are small in absolute numbers but are important in terms of worker protection dynamics. They include:

- Malagasy and Tanzanians to the Middle East,
- Filipinas, Sri Lankans, Kenyans, Malagasy into the Seychelles.

In the majority of countries in the region, domestic workers are almost entirely local, following rural-urban migration patterns. Table 2 records the primary migration flows, as well as smaller flows as reported in interviews. Given the factors related to fluid borders and cross-border family ties listed above, there may also be small, statistically insignificant numbers of migrant domestic workers from other countries that are difficult to trace, so the nationalities described are indicative of broad patterns and are not definitive or exclusive.

19 Later in the report we discuss trends in terms of Asian domestic worker 'chain-migration' accompanying Asian professionals and construction workers into some of the region's mining and industrial projects, but these are very small total numbers.

20 South Africans, Batswana and Namibians do work as domestic workers in their own countries. There are small numbers of Namibian domestic workers in Botswana, but this is the exception.

21 The identification of nationalities in the region which do and do not tend to enter domestic work when they migrate is based on our interviews with domestic worker organisations.

Table 2: Migrant domestic worker destination and country of origin patterns by nationality (based on key informant interviews)

Country	MDW destination pattern	MDW country of origin pattern
Angola	Domestic workers are predominantly local with some domestic workers from the Democratic Republic of the Congo and small numbers of domestic workers from the Philippines working for urban elites. ²²	Some Angolan migrant domestic workers in Namibia.
Botswana	A large proportion of domestic workers are migrants, primarily Zimbabweans with a small number from border countries such as Namibia and Zambia.	No record of Botswana migrant domestic workers in other countries.
Comoros	Domestic workers are almost entirely local.	No record of Comoran migrant domestic workers. There is limited data on Comoros.
Democratic Republic of Congo	Domestic workers are almost entirely local.	Small numbers of migrant domestic workers from the Democratic Republic of the Congo working as domestic workers in Angola.
Eswatini	Domestic workers are predominantly local. Small numbers of domestic workers from Mozambique and possibly Zimbabwe.	Many Liswati migrants work as domestic workers in South Africa.
Lesotho	Domestic workers are predominantly local, with some Asian domestic workers accompanying migrant employers.	Many Basotho migrants work as domestic workers in South Africa.
Madagascar	Domestic workers are almost entirely local. Almost 50% of international migrants are from Comoros, the rest being professionals from Europe and Asia.	Significant numbers of Malagasy migrants working as domestic workers in Lebanon, Kuwait and other Middle Eastern countries. Small number of Malagasy migrant domestic workers in the Seychelles.
Mauritius	Domestic workers are almost entirely local, with a very small number of migrant domestic workers accompanying migrant employers from South Africa, as well as Asian migrant workers from other sectors doing piecemeal domestic work.	No record of Mauritian migrant domestic workers.
Malawi	Domestic workers are almost entirely local.	Malawian migrants work as domestic workers in South Africa, with migrant domestic workers from Malawi's northern region working in Tanzania.

²² This was an important trend in Angola during the economic boom from 2010-2018, but has faded in the current economic climate (Castel-Branco 2018).

Country	MDW destination pattern	MDW country of origin pattern
Mozambique	Domestic workers are almost entirely local.	Many Mozambican migrants work as domestic workers in South Africa and some in Eswatini.
Namibia	A large proportion of domestic workers are migrants, with Zimbabweans in the majority.	Small number of Namibians working as migrant domestic workers in Botswana.
Seychelles	Some migrant domestic workers from the Philippines, Sri Lanka, Kenya, Madagascar, including workers from other sectors doing piecemeal domestic work.	No record of Seychellois migrant domestic workers.
South Africa	Major regional and continental migrant worker destination country, with a large proportion of migrant domestic workers. Zimbabweans are the largest nationality among domestic workers, with Mozambicans, Malawians, Basotho and Liswati also prominent.	No record of South African migrant domestic workers.
Tanzania	Domestic workers are mostly local with a growing number of migrant domestic workers from Malawi, and from Burundi in border regions.	Significant numbers of Tanzanian migrants work as domestic workers in Oman, United Arab Emirates (UAE) and other Middle Eastern countries.
Zambia	Domestic workers are mostly local, with some Indian migrant domestic workers accompanying migrant employers, as well as a small number of Zimbabweans.	Small numbers of Zambian migrant domestic workers are present in Botswana and may also be present in Namibia and Tanzania.
Zimbabwe	Domestic workers are almost entirely local.	Zimbabwean migrants constitute the largest migrant domestic worker nationality in the region, with the largest flow to South Africa and smaller flows to Botswana and Namibia. Zimbabweans also migrate to Mozambique, Malawi and Zambia but are less likely to work as domestic workers there.

The map in Figure 3 visualises the main migration systems into domestic work in the region with high-level estimates of country to country flow sizes.

Figure 3: Migrant domestic worker migration patterns in the SADC region²³

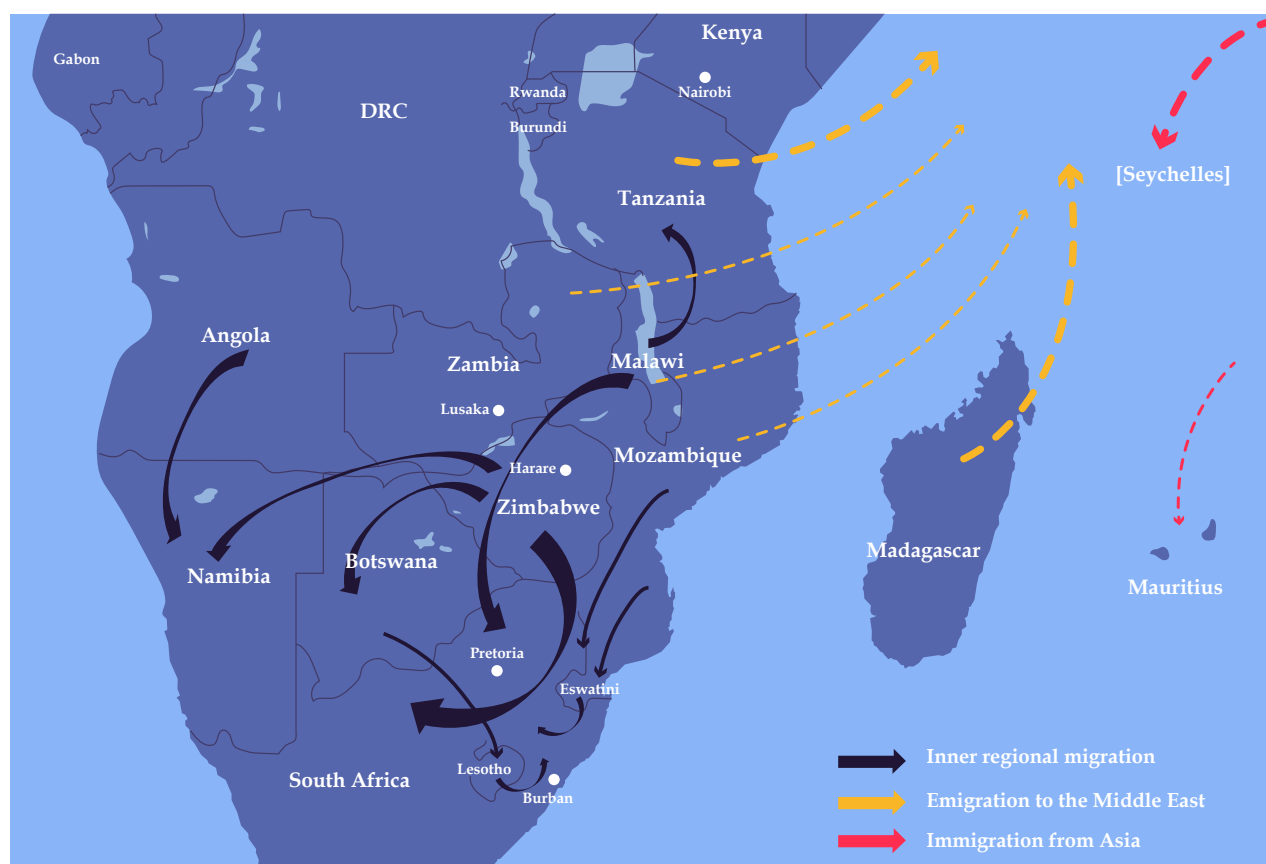


Table 3 shows the estimated total out-migration from origin countries whose nationals are known to engage in domestic work. In absolute numbers, Zimbabwe is by far the largest origin country, followed by Mozambique, Angola, the Democratic Republic of the Congo and Malawi. For these origin countries, the majority of out-migrants do not go into domestic work. Qualitative data tells us that the proportion who do is higher from Zimbabwe, Mozambique, Malawi, Lesotho and Eswatini, with only small proportions from the other countries.

²³ Migration flows and sizes shown here are estimates based on research interviews and analysis of UNDESA 2020 data on intra-regional migration. Given the challenges described of accessing information and statistics on migrant domestic work in the region, these estimates are not conclusive.

Table 3: Estimated total migrant stocks from potential migrant domestic worker origin countries hosted in the SADC region (UN DESA 200 data)

Country	Estimated sum of migrants from this origin country hosted within the SADC region	% of total migrants from potential migrant domestic worker origin countries hosted in the SADC region
Zimbabwe	911,981	33.7%
Mozambique	539,219	19.9%
Angola	337,621	12.5%
The Democratic Republic of the Congo	321,102	11.9%
Malawi	286,759	10.6%
Lesotho	200,613	7.4%
Eswatini	46,391	1.7%
United Republic of Tanzania	34,885	1.3%
Madagascar	13,797	0.5%
Comoros	12,920	0.5%
TOTAL	2,705,288	100%

When seeking to understand and measure migrant domestic work in a region which has as much intra-regional mobility as the Southern African region, looking at these wider migration flows between countries is important. It emphasises that migrants who end up in domestic work make choices about their mobility and their income-earning options which are both embedded in broader networks of migration and the nature of origin and destination-country economies. As economic conditions in either origin or destination countries change, migrants within existing migration networks or who are already present in destination countries may move into or out of domestic work, either as formal employment or informal income augmentation. The relative scope for this adaptation is greater for those nationalities with existing links into domestic work networks and national 'reputations' for domestic work, than for nationalities who have traditionally not done this work. An example is that Ethiopians and Somalis in South Africa have not moved into domestic work, in spite of coming from low-income and conflict-wracked countries, while large numbers of Zimbabweans (including those with good education levels and prior higher-skilled employment experience) did enter domestic work when their country's economy collapsed.

The absolute numbers obscure the relative impact which out-migration into the region has for countries in relation to their respective populations: Lesotho (9.4%), Zimbabwe (6.1%), Eswatini (4.0%) and Comoros, Malawi and Mozambique (1-2%).

Eswatini, Malawi and Lesotho are the only countries in the region which include a measure for the stock of nationals abroad (by sex and country of residence) in their censuses. Eswatini in its 2021 census captured emigration from 2017-2021 and Malawi in its 2018 census covered emigration from 2008 to 2018. Lesotho also reports on some “international labour migration” by Basotho nationals to other countries in the 2019 LFS but does not clearly describe how this group is defined or measured. Census on emigration is generally understood to be an underestimate as it depends on members of the emigrant’s household remaining in the country to be captured in the census, but it provides some sense of scale from an origin country perspective.

Eswatini data shows 32,448 emigrants. 56% were male over the entire 12-year period, but with an increasing female percentage within that period. 90.8% moved to South Africa and 3% to Mozambique. 51.3% of male emigrants and 30.5% of female emigrants to South Africa from Eswatini went for reasons of work, without more information being available about the type of work.

Malawi data shows 254,934 emigrants, 77.5% of whom were male, and 22.5% female. 80.7% of recorded emigrants moved to South Africa and 8.1% to Mozambique. The ‘reasons for leaving’ measure in Malawi’s census includes sector-specific work options and so it is recorded that a total of 23,099 Malawians migrated into domestic work between 2008 and 2018. 15,805 were male (representing 8% of total male emigrants) and 7,294 were female (12.7% of total female emigrants). While this count cannot be taken as a reliable indicator of the total number of Malawian domestic workers in the region, it provides insights into the particular gender patterns of Malawian migration into domestic work (Malawi National Statistical Office 2019).

If we show this population of migrants from a destination-country perspective (Table 4), we see that 55% are hosted in South Africa, confirming its role as regional migration hub in absolute terms.

Table 4: Destination Countries of migrants from dominant migrant domestic worker origin countries (DESA 2020), WDI 2020 total country population data

Country	Estimated sum of migrants from dominant MDW-origin countries hosted in this country	% of total regionally hosted migrants from dominant MDW-origin countries	Migrants from dominant MDW-origin countries as % of total hosting population
South Africa	1,496,398	55.3%	2.52%
Zimbabwe	231,414	8.6%	1.56%
Mozambique	225,837	8.3%	0.72%
The Democratic Republic of the Congo	177,028	6.5%	0.20%
Zambia	120,543	4.5%	0.66%
Malawi	102,166	3.8%	0.53%
United Republic of Tanzania	92,557	3.4%	0.15%
Angola	90,692	3.4%	0.28%
Botswana	70,550	2.6%	3.00%
Namibia	61,585	2.3%	2.42%
Madagascar	12,153	0.4%	0.04%
Eswatini	11,042	0.4%	0.95%
Comoros	9,748	0.4%	1.12%
Mauritius	2,301	0.1%	0.18%
Seychelles	816	0.0%	0.83%
Lesotho	458	0.0%	0.02%
Grand Total	2,705,288	100%	

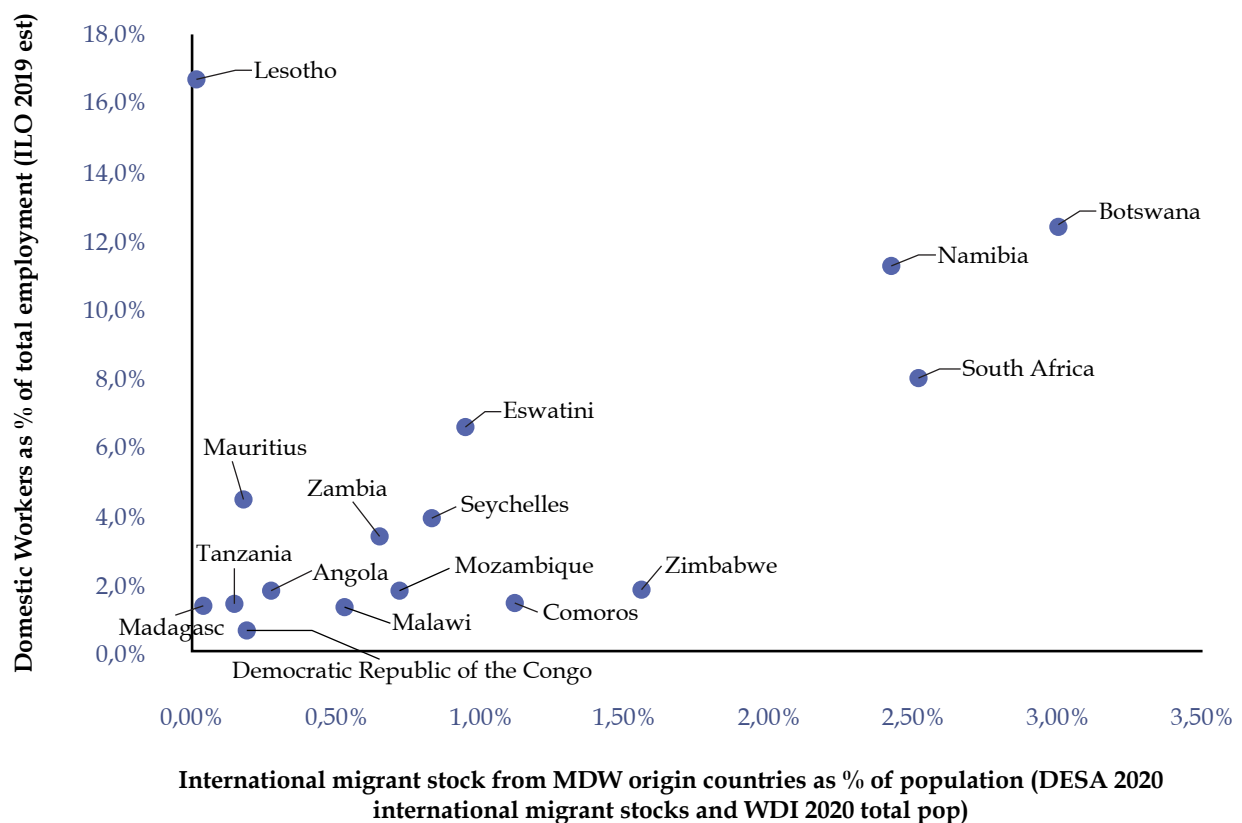
As with origin countries, absolute numbers of hosted migrants obscure the impact on destination countries with small populations, such as Botswana and Namibia. The right-hand column therefore shows the population of migrants from migrant domestic worker origin countries as a percentage of the destination country population, which also confirms South Africa's role as migration hub in relative terms, along with Botswana and Namibia.

In addition to narrowing down the migration patterns of the region to those which are relevant to domestic work, we must also understand variations in destination-country demand for domestic work. The ILO 2021 report modelled 2019 estimates for the percentage of domestic workers out of total employment. Similar to the variation in migration patterns in the region, we see many countries with very small measured domestic work industries, while others, notably the outlier Lesotho with Botswana, Namibia and South Africa, have a large share of their labour force engaged in the sector.

Figure 4 combines the prevalence of domestic work with the prevalence of migrants from migrant domestic worker origin countries. It shows, in relative terms to each country's population, which countries have both significant domestic worker markets and relevant migrant populations. Botswana, Namibia and South Africa clearly emerge as the countries with a major policy concern relating to hosting migrant domestic workers, given they are likely to make up a significant proportion of a significant economic sector.

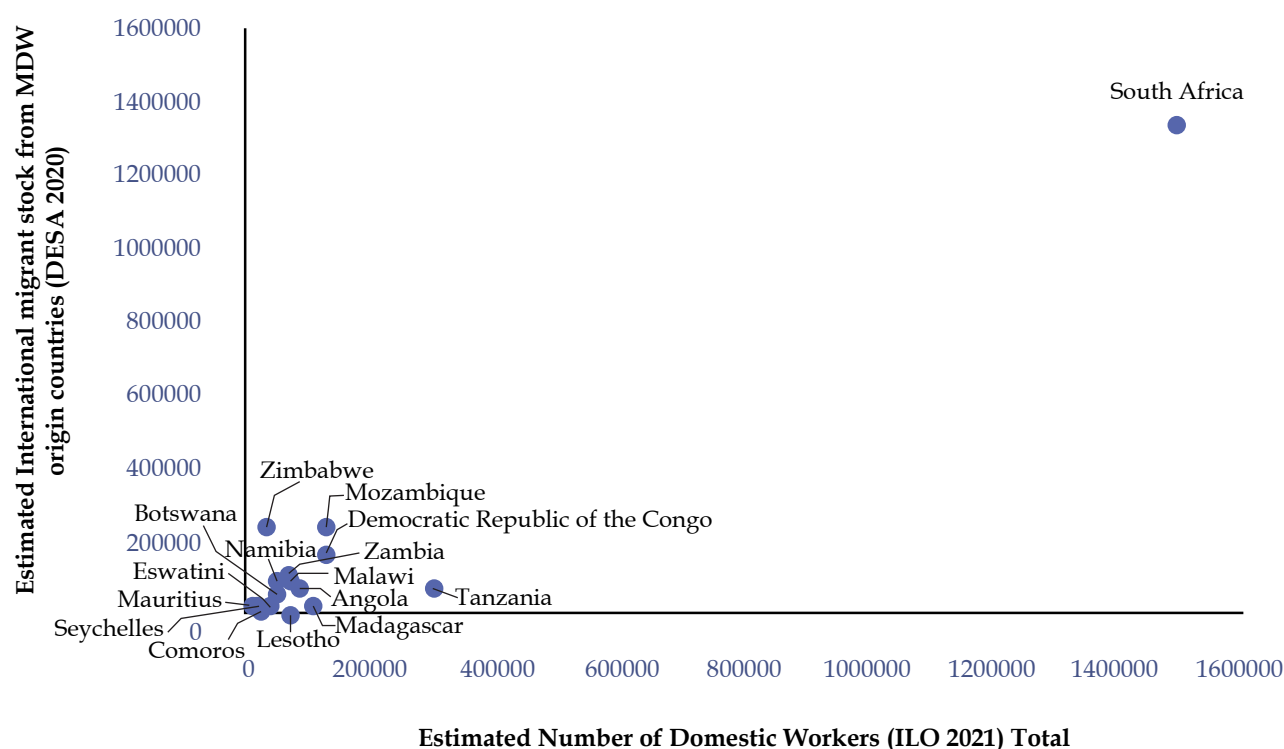


Figure 4: Combined migration patterns and domestic worker employment, proportional to destination country population size (DESA 2020 international migrant stocks, ILO 2019 domestic workers as share of employment, WDI 2020 country population estimates)



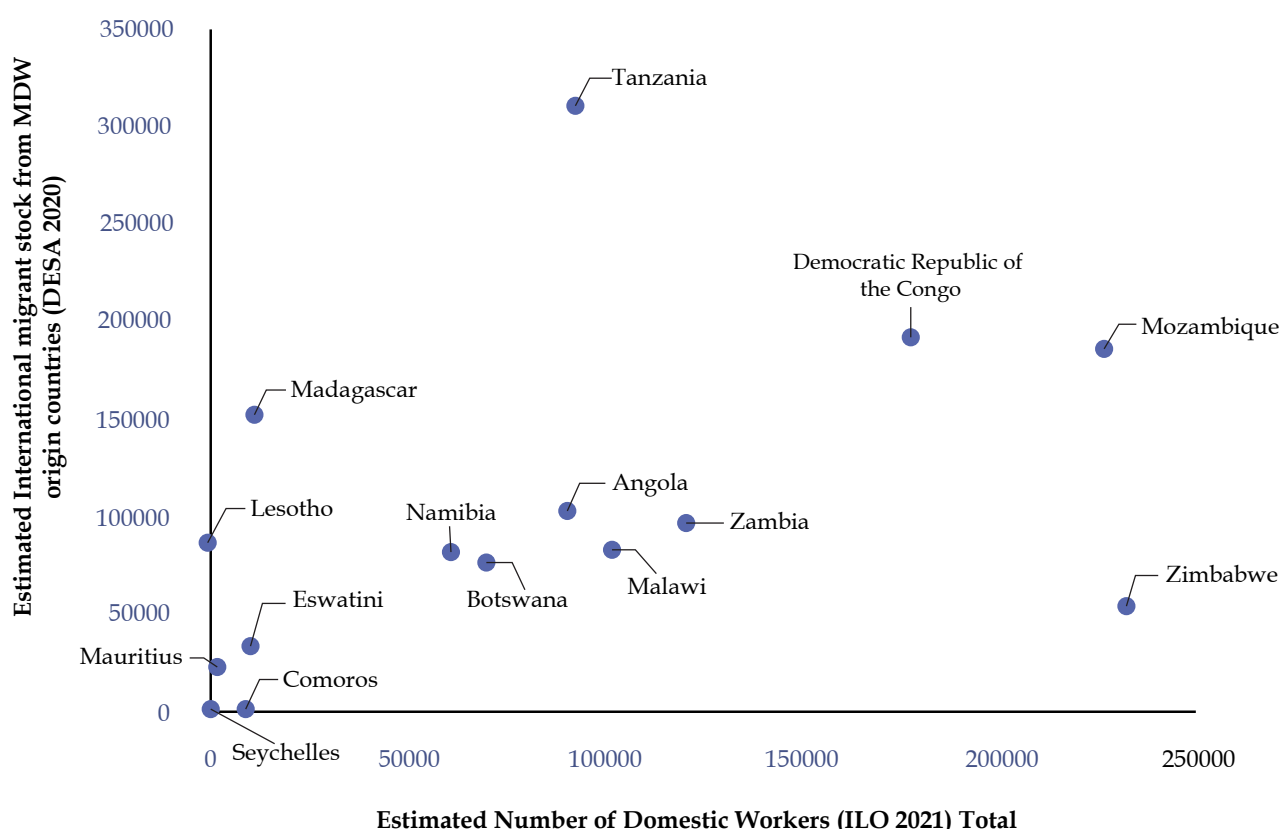
When we show the same information in terms of estimated absolute numbers of domestic workers and migrants from migrant domestic worker origin countries (Figure 5), we see that South Africa is an extreme outlier, with almost eight times as many domestic workers in the country and almost 3.5 times as many relevant migrants as the next set of countries. In terms of the volume of individuals potentially affected by policies and practices relating to migrant domestic workers, South Africa therefore has more than five times the populations of concern as all other 15 countries in the region combined.

Figure 5: Combined migration patterns and domestic worker employment, absolute numbers (DESA 2020 international migrant stocks, ILO 2019 domestic worker estimates)



Showing the estimated total volumes of domestic workers and migrants from migrant domestic worker origin countries does not directly translate into the proportion of domestic workers who are migrants because this is influenced by each country's economic conditions and structure. When we exclude the outlier South Africa in order to be able to see the distribution across the rest of the region (Figure 6), we see that the four countries with large populations (Zimbabwe, Mozambique, the Democratic Republic of the Congo and Tanzania) have the potential for hosting significant populations of migrant domestic workers in absolute terms, but our qualitative insights into the dynamics of migrant domestic workers in these countries tells us that the proportion of migrant domestic workers in these countries is very small.

Figure 6: Combined migration patterns and domestic worker employment, absolute numbers (DESA 2020 international migrant stocks, ILO 2019 domestic worker estimates) - Excluding South Africa



This brings us to a consideration of the available evidence regarding actual numbers of migrant domestic workers in countries of the region. Table 5 consolidates several types of data to arrive at country estimates. First, it uses the ILO's recent national estimates of domestic worker numbers per country. These estimates are based on detailed statistical modelling of official national microdata, combining information about employment sector, occupation and employers, where available (ILO 2021).

Box 5: The importance of modelling estimates of domestic worker numbers

When comparing the raw microdata provided by National Statistics Offices in the region with modelled ILO data, we see that NSO domestic worker measurements were higher than ILO estimates in Zimbabwe (55,040 ILO vs 165,632 NSO). Seychelles, Botswana and Namibia are notable examples where modelled ILO estimates were significantly higher than NSO-provided data, with modelled data for the Seychelles 15 times higher (1,951 ILO vs 123 NSO), for Botswana 1.5 times higher (76,674 ILO vs 48,644 NSO) and for Namibia 1.6 times higher (81,895 ILO vs 49,731 NSO). Statistical modelling of sub-groups like migrant domestic workers is especially challenging for countries with small populations, such as the Seychelles and even Botswana and Namibia, since any estimates from sample surveys are quickly inflated. In other countries the NSO measures were within close range of the ILO estimates.

As a second step, we estimated the percentage of total domestic workers in the country who are migrants, formulating this as falling between a lower and upper range, given the uncertainty in exact measurements. In some countries, this range was informed by survey data which directly measured the citizenship or country of birth of respondents along with their employment sector. This is described in Table 6 below. This empirically measured number was used as the lower end of the percentage range, once again to capture the probable undercount of most surveys. Most of the countries where such survey data was not available are countries where qualitative evidence tells us that migrant domestic worker proportions are low. Based on the empirically grounded estimates for countries with a low proportion of migrant domestic workers such as Tanzania and Zimbabwe that have some survey estimates, we have therefore applied a generic 0.5-1.5% estimate of migrant domestic worker prevalence among domestic workers for the following countries without good empirical data: Angola, Comoros, the Democratic Republic of the Congo, Madagascar, Malawi, Mozambique and Zambia.²⁴

Table 5: Migrant domestic worker estimates per country

Country	Estimated Range of MDW per country....			Based on:	
	high estimated MDW #	low estimated MDW #	Range of MDW pop	Estimated DW # from ILO 2021	MDW % of DW range
Comoros	38	13	<100	2,549	0.5-1.5
Seychelles	97	58	<100	1,939	3-5
Mauritius	365	244	101-500	24,365	1-1.5
Eswatini	349	279	101-500	34,898	0.8-1
Zimbabwe	1,101	440	501-1500	55,040	0.8-2
Malawi	1,243	414	501-1500	82,870	0.5-1.5
Lesotho	1,307	436	501-1500	87,165	0.5-1.5
Zambia	1,457	486	501-1500	97,104	0.5-1.5
Angola	1,553	518	501-1500	103,513	0.5-1.5
Madagascar	2,287	762	1,001-3,000	152,457	0.5-1.5
Mozambique	2,793	931	1,001-3,000	186,213	0.5-1.5
The Democratic Republic of the Congo	2,874	958	1,001-3,000	191,618	0.5-1.5
Tanzania	3,096	1,548	1,001-3,000	309,595	0.5-1
Botswana	11,501	7,667	5,001-10,000	766,74	10-15
Namibia	12,284	9,827	10,001-15,000	81,895	12-15
South Africa	200,301	160,241	100,001-200,000	1,335,343	12-15
SADC Total	242,647	184,823			

²⁴ While Malawi carried out a census in 2018 which included both labour and migration data, the publicly reported data on employment sector is not broken down to industry level and there is no disaggregation of employment by migration status. Microdata from the census could not be accessed.

The combination of the total domestic worker estimate and the migrant domestic worker range estimate then leads to a calculation of the lower and upper bounds of migrant domestic worker numbers for each country.

Nine of the 16 countries in the region have datasets which either measure migrant domestic workers directly or allow for a sex-disaggregated close estimate. These are listed in Table 6. In the cases of Botswana, Eswatini, Lesotho, Namibia, the Seychelles and Zimbabwe, a single dataset captures both employment industry and migration status and reporting on employment industry includes disaggregation by migration status.

Estimates which apply past migrant percentages to current employment data were needed in Mauritius and South Africa. In Mauritius, the total percentage of migrant domestic workers from the 2011 census was applied to total domestic worker statistics provided by the 2020 Continuous Multipurpose Household Survey. In the case of South Africa, the 2021 Quarterly Labour Force Survey provides the sex-disaggregated number of domestic workers and the 2017 QLFS (Q3) provides the sex-disaggregated percentage of migrant domestic workers, which percentage is applied back to the 2021 QLFS numbers. Applying historical migration patterns to current employment data is risky since time series data, where this exists, shows that there can be quite significant shifts in patterns over time. In the South African case, a migration module was included in the 2012 and 2017 QLFSs, showing that “work in private households ... increased for the immigrant population (13.4% in 2012 to 18.0% in 2017)” (Statistics South Africa 2019, 54). There are therefore likely to also have been shifts in the percentage of migrant domestic workers between 2017 and 2021, not least due to Covid-19.



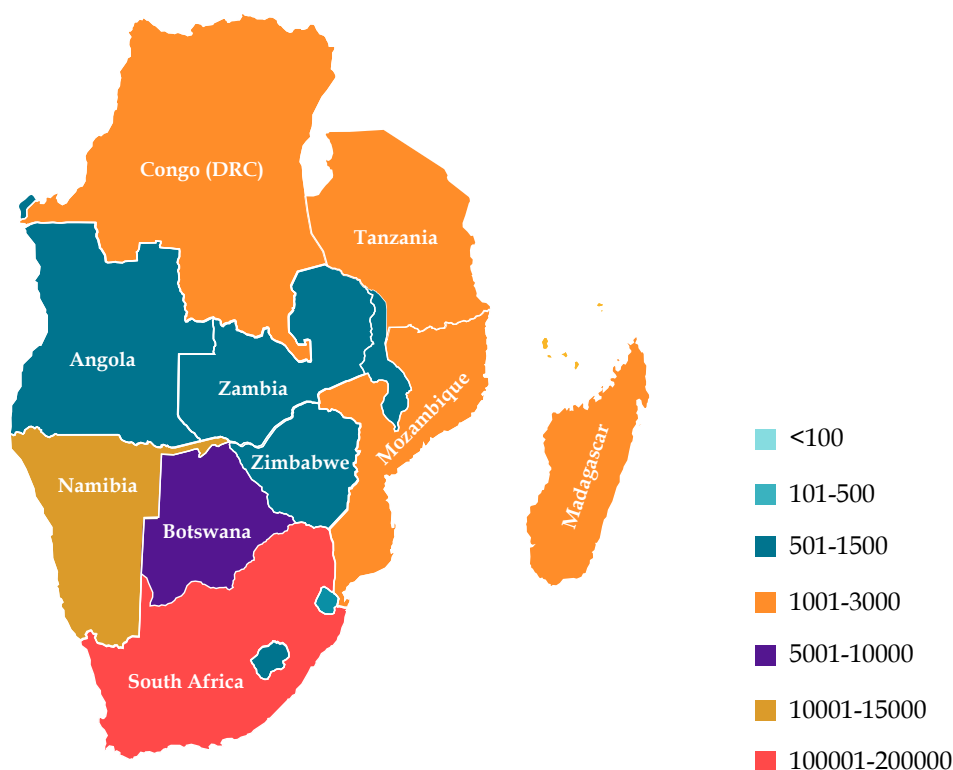
Table 6: Countries with Sufficient Data to measure or closely estimate migrant domestic workers

Country	Measured or Estimated MDW Total	Measured or Estimated MDW Male	Measured or Estimated MDW Female	Est MDW as % of DW (for countries with measured MDW)	Confidence Level	Data Sources
Botswana	799	799	0	1.0%	Measured (medium confidence, probable undercount)	2020 QMTS Q4 reports DW by migration status
Eswatini	296	123	173	0.8%	Measured (high confidence)	2017 Census reports DW by migration status
Lesotho	92	72	28	0.1%	Measured (medium confidence, probable undercount)	2019 LFS reports DW by migration status
Mauritius	244	302	47	1.0%	Estimated (medium confidence, outdated migration data)	2020 'Continuous Multi-Purpose Household Survey' (CMPHS) total DW with migrant % from 2011 Census
Namibia	9,803	8,007	1,796	12.0%	Measured (high confidence)	2018 LFS reports DW by migration status
Seychelles	51			0.0%	Measured (high confidence)	2020 QLFS reports DW by migration status
South Africa	142,874	89,037	53,837	10.7%	Estimated (high confidence)	2021 QLFS total DW by sex with 2017 QLFS % of foreign-born DW by sex
Zimbabwe	1,331	730	601	2.4%	Measured (medium confidence, only reported industry for sub-set of migrants)	2019 LFS reports DW by migration status but only for 'labour migrants'

Given all the caveats about hidden populations and weighting reliability described above, not all datasets which directly report migrant domestic worker numbers result in high confidence reflections of the actual number of migrant domestic workers in the country. For example, the 799 female (and no male) migrant domestic workers recorded in the 2020 QMTS Q4 for Botswana only reflect ‘formally employed’ domestic workers, which is a large underestimate of the total migrant domestic worker population. For the regional summary table (Table 5 above) we have therefore retained an estimated migrant domestic worker range based on assuming a 10-15% migrant domestic worker proportion of the overall domestic worker population, even though this is ten times as large as the QMTS reported ‘formally employed’ measure. Similarly, in Lesotho, the 92 reported migrant domestic workers are likely to be an underestimate and so we have retained the estimated migrant domestic worker range based on a 0.5-1.5% migrant domestic worker proportion of the overall domestic worker population. Finally, in Zimbabwe, even though the reported 1,331 migrant domestic workers is likely to be an underestimate, this has been retained as the lower range estimate for the summary statistics, since it falls within a reasonable percentage range for the overall estimate of the domestic workers population.

An estimate of the range within which migrant domestic worker numbers fall is sufficient for most evidence-based decision making related to the overall size of the migrant domestic worker population in a country, or the relative size of these populations across countries. For the SADC countries, these ranges are shown on the map in Figure 7.

Figure 7: Migrant Domestic Worker Prevalence Range Map (Source: own calculations)



5. Migration Policy Environment

This section of the report summarises the policy environment relating to cross-border migrant workers in the SADC region, as it relates to low-skilled migrants generally and domestic workers specifically. The policy environment includes international and regional conventions as well as domestic legislation and regulations relating to labour migration.

Broadly, migration policy in the region is characterised by the following factors:

- The absence of a multilateral agreement in the SADC region means that different countries have approached the issue of labour migration from different perspectives based on their own needs.
- The five countries in the region that have adopted National Labour Migration Policies (NLMPs) (Lesotho, Mauritius²⁵, Namibia, Seychelles and Zimbabwe) are geared towards managing both migration and labour for the purpose of social and economic development, and to deal with the challenge of irregular migration. There is no evidence of the extent to which these countries have reviewed their legislation in order to harmonise their immigration, labour and other laws with the policies and action plans set out in the NLMPs. At least a standard objective of the

²⁵ Information based on other literature and not on the country's NLMP itself.





NLMP in each country is the amendment of the country's laws so that they are in line with relevant international and regional labour standards and good practices.

- A number of countries such as Eswatini, Lesotho, Mauritius, Mozambique, South Africa, Seychelles and Zimbabwe have bilateral agreements with each other or with other countries outside the African continent (mainly Middle Eastern countries) for the management of migrant workers but without sight of these agreements, it is difficult to establish the specific terms upon which the countries regulate labour migration.
- South Africa's two special dispensations regularising migrants from Lesotho and Zimbabwe are a piece-meal approach to dealing with the challenge of large numbers of migrants moving into the country, many at the lower-skilled end of the labour market (Wickramasekara 2015). While they were not intentionally targeted at regularising migrants in the domestic work sector, these policy initiatives have also benefitted migrant domestic workers from these countries, enabling migrant rights and labour rights protections for migrant domestic workers, given the high absolute numbers of Zimbabweans and Basotho working in the sector in South Africa.²⁶

²⁶ In mid-December 2021, the South African government announced that it would not extend the ZEP beyond the expiry date of 31 December 2021, with a one year grace period to apply for other documentation. This decision will affect hundreds of thousands of Zimbabweans, including MDWs who are holders of this permit, as they are unlikely to qualify for any of the other regular visas such as work, business and study visas.

5.1. International Conventions

Table 7 summarises the ratification status of major relevant international conventions by SADC countries. It shows a chequered record, without any regional coordination or consensus.

Table 7: *Table of Ratification of Relevant International Conventions*

	COUNTRY	UN Migrant Workers Convention (1990)	ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (C143)	ILO Migration for Employment convention, 1949 (C97)	ILO Domestic Workers Convention, 2011 (C189)	ILO Worst Forms of Child Labour Convention, 1999 (C182)	ILO Private Employment Agencies Convention, 1997 (181)
1	Angola	NO	NO	NO	NO	YES	NO
2	Botswana	NO	NO	NO	NO	YES	NO
3	Comoros	NO	YES	YES	NO	YES	NO
4	Democratic Republic of the Congo	NO	NO	NO	NO	YES	NO
5	Eswatini	NO	NO	NO	NO	YES	NO
6	Lesotho	YES	NO	NO	NO	YES	NO
7	Madagascar	YES	YES	YES	YES	YES	YES
8	Malawi	NO	NO	YES	NO	YES	NO
9	Mauritius	NO	NO	YES	YES	YES	NO
10	Mozambique	YES	NO	NO	NO	YES	NO
11	Namibia	NO	NO	NO	YES	YES	NO
12	Seychelles	YES	NO	NO	NO	YES	NO
13	South Africa	NO	NO	NO	YES	YES	NO
14	Tanzania	NO	NO	YES (Zanzibar)	NO	YES	NO
15	Zambia	NO	NO	YES	NO	YES	YES
16	Zimbabwe	NO	NO	NO	NO	YES	NO

Source: ILO (www.ilo.org); UN (<https://www.ohchr.org>)

We summarise the main international migrant rights conventions as they relate to migrant domestic workers.

There are eight fundamental conventions of the International Labour Organisation (ILO) (ILO 2022b). These conventions can be split into four groups or categories. The first category consists of conventions dealing with freedom of choice to work and to not be subjected to forced labour. The two conventions in this category are the Forced Labour Convention, 1930 (No 29)²⁷ and its 2014 Protocol,²⁸ as well as the Abolition of Forced Labour Convention, 1957 (No. 105).²⁹ The second category consists of the conventions that grant workers the right to freely associate and organise, and to participate in collective bargaining. Included here are the Freedom of Association and Protection of the Right to Organise Convention of 1948 (No. 87),³⁰ and the Right to Organise and Collective Bargaining Convention of 1949 (No. 98).³¹

The third category are conventions that provide for equal remuneration for all workers for work of equal value, and the prohibition of discrimination in respect of employment and occupation on any basis including race, colour, sex, religion, political opinion, national extraction or social origin. The two conventions in this category are the Equal Remuneration Convention of 1951 (No. 100)³², and the Discrimination (Employment and Occupation) Convention of 1958 (No. 111).³³ The final category of fundamental conventions deals with the protection of children from exploitation including the abolition of the worst forms of child labour. In this group are the Minimum Age Convention, 1973,³⁴ and the Worst Forms of Child Labour Convention, 1999 (No. 182)³⁵

All the fundamental conventions of the ILO apply with equal force to migrant workers because they set the minimum floor of rights and freedoms applicable to all categories of workers irrespective of their national origin or migration status. Migrant Workers are especially vulnerable given that they work in foreign jurisdictions, away from their countries of origin and in circumstances where they may be subject to exploitation and abuse. In this regard, both the United Nations (UN) and the ILO have adopted specific treaties on migrant workers which aim at establishing a common platform of migrant worker rights on the one hand, and concomitant state obligations to ensure the protection of those rights, on the other. We consider some of these conventions below.

27 Adopted on 28 June 1930.

28 Adopted on 11 June 2014.

29 Adopted on 25 June 1957.

30 Adopted on 09 July 1948.

31 Adopted on 01 July 1949.

32 Adopted on 29 June 1951.

33 Adopted on 25 June 1958.

34 Adopted on 25 June 1973.

35 Adopted on 19 June 1999.

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES, 1990 (OHCHR 1990)

The Migrant Workers Convention, which was adopted by the General Assembly of the United Nations on 18 December 1990, “sets minimum standards for migrant workers and members of their families, with a focus on eliminating the exploitation of workers in the migration process” (Cooper 2017). Fifty-six countries are states parties to this Convention (United Nations Human Rights Office of the High Commissioner 2014).

A migrant worker is defined in the Convention to mean a person “who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.”³⁶ The Convention identifies specific categories of migrant workers such as seasonal workers, seafarers, workers working on off-shore installations, itinerant workers and project-aid workers. Articles 7 to 63 of the Convention provide for the rights of migrant workers and oblige states to respect and protect these rights. States must also put measures in place (such as through legislation) to ensure that the rights of migrant workers and members of their families as set out in the Convention are realised in practice. Among the range of rights that migrant workers and members of their families are entitled to include non-discrimination, the right to leave and to return to one’s state of origin,³⁷ the right to privacy,³⁸ the right not to have one’s identity documents confiscated or destroyed³⁹ and the right to remit their earnings and savings back to their countries of origin.⁴⁰

THE MIGRATION FOR EMPLOYMENT CONVENTION (REVISED), 1949 (NO. 97) (ILO 1949)

The instrument was adopted by the International Labour Conference of the International Labour Organization on 01 July 1949. It sets minimum standards for protection of the rights of immigrants present within the territory of a member state.⁴¹ These include that migrant workers are to enjoy no less favourable treatment in comparison with nationals of the member state in respect of remuneration,⁴² membership of trade unions and enjoyment of the benefits of collective bargaining⁴³ and accommodation.⁴⁴ They are also, subject to certain limitations,⁴⁵ to fully enjoy their social security protections in respect of injury at work, family responsibility, maternity, sickness, old age and death, among others.⁴⁶

36 Article 1

37 Articles 7 and 8

38 Article 14

39 Except by public officials and in accordance with the law (Article 21)

40 Article 47

41 Article 6 of the Convention states that: “Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals...” The use of the term “lawful/unlawful” or “legal/illegal” to denote the migration status of individuals has been increasingly abandoned in favour of the terms “undocumented” or “non-documented” or “irregular” migrants. See (United Nations High Commissioner for Refugees 2018)

42 Article 6(1)(a)(i) of the Convention.

43 Article 6(1)(a)(ii).

44 Article 6(1)(a)(iii).

45 e.g. access to benefits or portions of benefits payable wholly out of public funds (Article 6(b)(ii)).

46 (Article 6(b)).

THE MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION, 1975 (NO. 143) (ILO 1975)

In its 1975 instrument, the ILO sought to address aspects that were not or inadequately covered in existing ILO instruments, particularly Convention No. 97. Hence Convention No. 143 contains provisions on equality of opportunities, addresses irregular migration and illegal employment, and provides for a general obligation to respect fundamental human rights. Convention No. 143 requires Member States to take measures to ensure that the rights of migrant workers and members of their families are fully protected. As such, the convention requires member states to “respect the basic human rights of all migrant workers”⁴⁷ and to set in place policies designed to guarantee the equality of opportunity and treatment of migrant workers and members of their families who are lawfully within their territory.⁴⁸ Regarding irregular or undocumented migration, the convention calls on member states to address the challenge of ‘migration in abusive conditions’ by among other things, taking measures “against the organisers of illicit or clandestine movements of migrations for employment.”⁴⁹

PRIVATE EMPLOYMENT AGENCIES CONVENTION, 1997 (NO. 181) (ILO 1997)

Private Employment Agencies (PEA) play an important role in the recruitment and placement of domestic workers around the world. Convention No. 181 was adopted by the ILO International Labour Conference on 19 June 1997. Thirty-seven countries have ratified the Convention (ILO 2000). Among SADC countries, only Madagascar⁵⁰ and Zambia⁵¹ are parties to this Convention. The convention recognises the role of PEAs in the well-functioning of labour markets and requires that member states regulate the licensing, conditions and operations of PEAs through national legislation.

At the same time and with the aim of preventing the abuse of workers employed by or through PEAs and protecting them against the said abuse, the Convention requires member states to ensure through law and practice that workers enjoy all their rights at work (i.e. freedom of association, collective bargaining, statutory social security benefits, etc.)⁵², and that there is a periodic review of conditions in order to promote cooperation between the public employment service and PEAs.⁵³

Although the above three conventions are not specific to migrant domestic workers, they broadly protect migrant domestic workers against non-discrimination,⁵⁴ or unequal treatment in respect of remuneration, conditions of work and benefits.⁵⁵ They also oblige

47 Article 1.

48 Article 10.

49 Article 3(b).

50 Ratified on 11 June 2019.

51 Ratified on 23 December 2013.

52 Articles 11 & 12 of the Convention.

53 Article 13

54 See e.g. Article 5 of the UN Migrant Workers Convention (1990)

55 Ibid, at Article 25. See also Article 6 of the ILO Migration for Employment Convention (1990).

states to take legislative and other measures (e.g. establish an adequate machinery and procedures for the investigation of complaints, abuses and fraudulent practices concerning PEAs)⁵⁶ in order to limit the exploitation of workers.

DOMESTIC WORKERS CONVENTION, 2011 (CONVENTION 189) (ILO 2011b)

Whereas the conventions discussed above provide for the general protection of the rights of migrant workers, the Domestic Workers Convention (commonly referred to as C189) focusses specifically on domestic workers including migrant domestic workers. This convention was adopted by the International Labour Conference of the International Labour Organisation (ILO) on 16 June 2011. So far, 35 countries have ratified the convention (ILO 2013). Among SADC member states only Madagascar⁵⁷, Mauritius⁵⁸, Namibia⁵⁹ and South Africa⁶⁰ have ratified the convention.

Article 1 of the Convention defines the term “domestic work” broadly to mean work performed in or for a household or households, within an employment relationship and on an occupational basis” (ILO 2021, xvii). Domestic Workers should have rights equal to those of other workers including the right to freedom of association and the effective recognition of the right to collective bargaining,⁶¹ and fair terms of employment as well as decent working conditions.⁶² In terms of Article 4 of the Convention, member states must set a minimum age for domestic workers consistent with the Minimum Age Convention of 1973 (15 years) (ILO 1973)⁶³ as well as the Worst Forms of Child Labour Convention of 1999.⁶⁴

Regarding migrant domestic workers, the Convention requires member states to ensure that such workers have a written job offer or contract of employment before they depart from their countries of origin and that the offer or contract is enforceable in the country of destination.⁶⁵ There must also be laws or measures specifying how the migrant domestic workers will be repatriated to their countries of origin once the employment relationship comes to an end.⁶⁶ Importantly, article 15 of the Convention directs member states to take a range of measures in order to “Effectively protect domestic workers, including migrant domestic workers placed by private employment agencies, against abusive practices.” Such measures include adopting national legislation and policies to govern the operations of PEAs involved in the recruitment and placement of domestic workers, ensuring that an adequate machinery exists for the investigation of complaints against PEAs, and concluding

56 Article 10 of the PEA Convention.

57 Ratified on 11 June 2019

58 Ratified on 13 September 2012.

59 Ratified on 09 December 2020.

60 Ratified on 20 June 2013.

61 Article 3.

62 Article 6.

63 Article 2(2) of the Convention states that “the minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”

64 Article 2 states that for purposes of the convention, the term “child” shall apply to “all persons under the age of 18. The preamble to the convention makes it clear that the convention aims to complement the Minimum Age Convention and its Recommendation “which remain fundamental instruments on child labour.”

65 Article 8

66 Ibid.

bilateral, regional or multilateral agreements between countries of origin and countries of destination to prevent abuses and fraudulent practices in the recruitment, placement and employment of domestic workers.

Domestic work is considered highly vulnerable, and the Domestic Workers Convention has been hailed for its far-reaching protections (Bamu 2018).

5.2. Continental Action Plan on Migration

MIGRATION POLICY FRAMEWORK FOR AFRICA AND PLAN OF ACTION (MPFA) (2018-2030) (AU 2018)

The revised Migration Policy Framework for Africa (MPFA) and Plan of Action was adopted by the African Union (AU) in 2018. It aims to respond to the changing migration dynamics on the continent and across the world in a “coherent manner” in order to “reap the benefits of the linkages between migration and development” (AU 2018, 8). The framework has eight pillars each of which has a number of recommended strategies. Four key pillars of the framework that are relevant for discussion in respect of labour migration are: (i) Migration Governance (AU 2018, 30–32), (ii) Labour Migration and Education (AU 2018, 35–37), (iii) Border Governance and (iv) Irregular Migration. Regarding migration governance, the framework emphasises that African states should comply with international standards and law in order to secure the rights of migrants (AU 2018, 30), engage with partners to address migration and related issues (AU 2018, 31) and facilitate safe, orderly and dignified migration (AU 2018, 32).

On the theme of labour migration and education, the MPFA calls on African states to, among other things, ratify and domesticate all ILO conventions on labour migration, ensure that national laws provide women migrant workers – especially domestic workers – with the same rights and protections that are extended to all workers, and to build national capacity to manage labour migration by developing national labour migration policies. In addition, states should provide social protection and social security benefits (including unemployment insurance, compensation for employment injury, long-term illness, death benefits, disability, parental leave and old-age pension) for all migrant workers (AU 2018, 35–36).

Border Governance seeks to address irregular migration, ‘illegal’⁶⁷ activities and security concerns. The framework states that the overall aim of this pillar is “to balance the easy and legal movement of humans and goods and the prevention of illegal activities, human and national insecurity through effective and efficient joint arrangements” (AU 2018, 45). Lastly, regarding irregular migration, the framework recognises that this phenomenon is the outcome of primarily the need for international protection (forced migration) and increased barriers to regular migration (AU 2018, 48). In the event, migrant smuggling has become common-place and with it, human trafficking and organised crime (AU 2018).

⁶⁷ The term “illegal” when used in reference to migration or work by migrants often denotes persons or migrant workers who are undocumented. It is a discriminative term and has been gradually abandoned in favour of human rights oriented terms such as “undocumented” (United Nations High Commissioner for Refugees 2018).

The framework recommends a number of measures to address irregular migration including ratification of the UN Protocol Against the Smuggling of Migrants by Land, Sea and Air Supplementing the United Nations Convention against Transnational Organized Crime, 2000 and incorporating its provisions into domestic law; and protecting the rights of smuggled migrants by taking measures such as guaranteeing their safety and well-being and giving them effective access to justice and legal assistance (AU 2018, 48–49).

Another continental policy of relevance is the African Continental Free Trade Agreement which came into force on 1 January 2021 and which includes free movement of people as well as goods. Since the core function of the agreement is to regular trade, rather than migration, its implications for the movement and employment of people and harmonisation with the existing migration policy frameworks on the continent and its regions, has not been adequately explored. We suggest further consideration of this in our recommendations for additional research.

5.3. Regional Protocols on Migration and Labour

In addition to international conventions discussed in the section above, SADC as a regional body has a number of regional protocols relating to migration. However, none are formally in operation because they have not been signed or ratified by enough countries. For both the SADC Protocol on Employment and Labour (2014) and the SADC Protocol on Movement of Persons (2005), only nine countries have signed them yet ten out of the sixteen member states are required for the instruments to become binding.

Table 8: Signatories to Relevant Regional Instruments

	COUNTRY	SADC Protocol on Employment and Labour (2014)	SADC Protocol on Movement of Persons (2005)
1	Angola	NO	NO
2	Botswana	NO	YES
3	Comoros	NO	NO
4	Democratic Republic of the Congo	YES	YES
5	Eswatini	NO	YES
6	Lesotho	YES	YES
7	Madagascar	NO	NO
8	Malawi	YES	NO
9	Mauritius	NO	NO
10	Mozambique	YES	YES
11	Namibia	YES	YES
12	Seychelles	YES	NO
13	South Africa	YES	YES
14	Tanzania	NO	YES
15	Zambia	YES	NO
16	Zimbabwe	YES	YES

Source: SADC (www.sadc.int/)

SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS (2005) (SADC 2005b)

Only nine of the sixteen SADC member states have signed this protocol.⁶⁸ Article 36 states that the Protocol will enter into force thirty days after the deposit of the instrument of ratification by two-thirds of the member states. In 2005 when the protocol was adopted, SADC was made up of 14 member states (SADC 2005a),⁶⁹ presently, the regional body is made up of 16 members.⁷⁰ According to Mudungwe, a researcher who has investigated the role of migration and development in the SADC region, only six out of the required nine member states have ratified the protocol hence it is not yet in force (Mudungwe 2015).

The overall objective of this protocol is to develop policies by member states aimed at the progressive elimination of obstacles to the movement of persons in the region generally and within the territories of member states. It aims at facilitating the right of member states in respect of (1) entry without visas for a lawful purpose for a short duration of time (maximum 90 days); (2) permanent and temporary residence; and (3) the self-establishment of migrants working in the territory of another state party (Mudungwe 2015).

SADC member states commit themselves to a set of common actions including the establishment of reliable national population registers,⁷¹ and the harmonisation of national laws and practices on migration.⁷² Vanyoro in a policy brief on Zimbabwean domestic workers in South Africa points out that the Protocol has a strong emphasis on economic self-sufficiency and national interest of SADC member states (Vanyoro 2019). On the other hand, Mudungwe cautions that the failure to adopt the Protocol will continue to perpetuate economic disparities in the region (Mudungwe 2015, 28–30). He adds that due to an absence of legal avenues to facilitate migration, there has been an increase in irregular labour migration in the region. South Africa and Botswana are the major destination countries while Zimbabwe and Mozambique remain the main countries of origin (Mudungwe 2015).

SADC PROTOCOL ON EMPLOYMENT AND LABOUR (2014)

Like the Free Movement of Persons Protocol, this Protocol is not yet in force. Article 19 of the Protocol deals with Labour Migration and Migrant Workers. It obliges member states to improve migration management and control and strengthen mechanisms to combat smuggling and human trafficking. In addition, states in the region are called upon to ensure that the labour and social protection rights of non-citizens are protected; that they adopt measures to provide for the special needs of migrant women, children and youth; that they harmonise national migration legislation and policies; and adopt a regional migration policy. Regional statements must also adopt measures to facilitate the coordination and portability of social security benefits, as discussed further below in this report (section 6.2 on social protection), reach an agreement on a common approach towards immigration and

68 They are: Botswana, the DRC, Eswatini, Lesotho, Mozambique, Namibia, South Africa, Tanzania and Zimbabwe.

69 Angola, Botswana, DRC, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe.

70 Including the Seychelles which joined in 1997 but withdrew in 2004 and was re-admitted in 2008 (tralac 2018). The Comoros is the most recent member of SADC, it joined in August 2017 (SADC 2022a).

71 Article 9

72 Article 13

enhance the collection and analysis of labour migration data. It is an approach that finds resonance in the continental framework on migration and labour - the MPFA.⁷³

SADC LABOUR MIGRATION POLICY FRAMEWORK (2014) (SADC 2022b)

The overall objective of the SADC Labour Migration Policy Framework is to develop a harmonised regional policy framework to regulate labour migration within the SADC region. The Policy covers eleven areas of concern which are policy harmonisation, national sovereignty, the rights of migrant workers, data, mobility of semi- and highly skilled workers, mobility of low-skilled workers, mobility of self-employed workers, labour market needs, organisation, representation of migrant workers, social rights portability and remittances, and regulation of informal and “illegal” work.⁷⁴ As a policy framework, this instrument provides SADC member states with a useful template from which to develop a regional labour migration policy. It would appear however that states in the region are increasingly moving towards the adoption of national labour migration policies (as in the case of Lesotho, Mauritius, Namibia, Seychelles and Zimbabwe) as opposed to an overarching multilateral instrument applying to the region as a whole.

SADC LABOUR MIGRATION ACTION PLAN (2020-2025) (SADC 2020)⁷⁵

SADC’s Labour Migration Action Plan (2020-2025) replaced the earlier Draft Action Plan for the period 2016-2019. The current Plan aims to give effect to the Free Movement of Persons Protocol as well as the Draft Employment and Labour Protocol.⁷⁶ While noting that these two protocols are not yet in force, the Plan highlights that member states “continue to make significant progress in implementing these instruments, most notably through bilateral arrangements that guarantee the right of entry for lawful purposes within the region” (SADC 2020, 4). Three strategic objectives underpin the Plan (SADC 2020, 14):

1. Firstly, to strengthen labour migration policies and regulatory systems for better labour migration governance;
2. Secondly, to protect the rights of migrant workers; and
3. Thirdly, to enhance the participation of migrant workers in the social and economic development of both countries of origin and countries of destination.

The ratification of key global, continental and regional migration instruments is seen as central to better labour migration governance. In addition, the plan proposes that member states adopt national labour migration policy frameworks to address issues of both migration as well as labour (SADC 2020, 15).

⁷³ Ref section 6.2 above.

⁷⁴ Pp9-18. Whereas there is no definition of the term “illegal work” in the Framework, it appears that the terms is used here to refer to work performed by undocumented migrant workers. For instance, *Policy Area 11: Regulation of informal and illegal work and of intermediaries*, states that “there are also suspicions of an overrepresentation of migrant workers in illegal work, to be distinguished from informal work as forms of employment...” labour or migration legislations

⁷⁵ Thanks to Theodoor Sparreboom of the ILO for providing us with a copy of the action plan.

⁷⁶ The action plan makes reference to seven other regional instruments as follows: SADC Treaty of 1992; SADC Protocol on Education and Training (1997) (already in force); SADC Revised Regional Indicative Strategic Development Plan (RISDP) (2015-2020); SADC Industrialization Strategy and roadmap (2015-2063); SADC Labour Migration Policy Framework (2014) (Draft); SADC Decent Work Programme (2013-2019); and the earlier SADC Labour Migration Action Plan (LMAP) (2016-2019) (SADC 1992; 1997; 2014; 2015; 2013b; 2013a; 2016)

- The action plan is a welcome addition to the gradually increasing number of instruments being considered by SADC member states for the management of labour migration in the region. It is uncertain however whether the plan will eventually be put into practice given that long-standing instruments such as the 2005 Protocol on the Movement of Persons as well as the 2014 Protocol on Employment and Labour are not yet in force due to a lack of sufficient ratifications.

In summary, our findings relating to the engagement of SADC countries with international and regional migration policy frameworks reflect that:

- At both continental and regional levels, there are efforts to manage migration for economic growth and sustainable development. Notably, in March 2018, the African Union adopted the Agreement Establishing the African Continental Free Trade Area. This Agreement aims at creating a single market for goods and services on the African continent and towards that end, member states commit to facilitating the movement of capital and persons across their jurisdictions. It means that labour migration will become an essential factor if the continent is to realise the objectives of the Agreement (AU 2019).
- There is acknowledgement that migration is a fact of life and that restrictive migration policies in the region will continue to hamper economic development, and spawn irregular migration including human trafficking, cross-border crime and organised crime.



- Whereas SADC member states have made tentative steps to adopt protocols and policies to manage labour migration, the relevant protocols (The Protocol on the Free Movement of Persons (2005) and the Protocol on Employment and Labour (2014)) are yet to enter into force. The failure by SADC member states to adopt these protocols means, as Mudungwe has emphasised,⁷⁷ that the region will continue to experience economic disparities. This means that relatively wealthier countries such as South Africa, Namibia and to an extent, Botswana, will remain countries of destination while relatively poorer countries such as Lesotho, Mozambique and Zimbabwe will remain countries of origin for migrant workers, including migrant domestic workers. Ratification of the two protocols by the requisite minimum number of member states is therefore essential.
- At the meeting of SADC Ministers of Employment and Social Partners in March 2020, it was decided to develop a new Protocol on Employment and Labour.
- SADC's Labour Migration Policy Framework (2014) sets a useful policy guideline and is complemented by the Labour Migration Action Plan (2020-2025) which was adopted at the meeting of SADC Ministers of Employment and Social Partners in March 2020 (SADC 2021). The adoption of this plan provides the clearest indication of the intent by SADC member states to address issues of labour migration in a harmonised manner.

5.4. National Labour Migration Policies

While international and regional conventions and policies provide important guidance and set minimum standards, they only take on real significance for the improvement of migrant domestic worker living and working conditions if these standards are adopted into national policy and then implemented at national level. In practice, national policies on migration are shaped by many different factors, including but not limited to the guidance provided by international and regional legal frameworks. Furthermore, national migration management, and especially labour migration management, is in many cases not expressed in explicit labour migration policies but often in the gaps between explicit policies.

Only five countries in the region (Lesotho, Mauritius, Namibia, Seychelles and Zimbabwe) have adopted National Labour Migration Policies (NLMPs) as well as implementation frameworks and/or action plans. We assess the NLMPs in light of the absence of a multilateral instrument for the management of labour migration in the region. The other 11 countries, including major migrant domestic worker destination countries like South Africa and Botswana, do not have explicit labour migration policies at all. Be that as it may, some of these countries including Botswana, Eswatini, Malawi, Mozambique, South Africa and Zambia are, with the support of the Southern African Migration Management Project (ILO 2020), currently engaged in processes for developing their own NLMPs.⁷⁸

⁷⁸ On 28 February 2022, South Africa launched its National Labour Migration Policy. We have not reviewed the policy as at the time of its launch, this research report had already been concluded.

LESOTHO

Lesotho has high levels of poverty and significant economic inequalities (UNDP 2019). The lack of employment opportunities and basic services has seen many Basotho emigrate primarily to South Africa to seek employment mostly in the mining sector, but also farming and domestic work sectors (IOM 2018). Lesotho adopted its NLMP in 2018.⁷⁹ The policy deals with both immigration and emigration and highlights the following objectives (Ministry of Labour and Employment 2018, 10):

- Ensure that governance of labour migration in the country is in line with relevant international and regional labour standards and good practices;
- Safeguard the human rights of migrant workers and their families within and outside Lesotho;
- Promote decent work and employment through labour migration;
- Ensure access to social security for migrant workers and their families; and
- Ensure that labour migration contributes to the economic and social development of Lesotho.

The Policy identifies a number of challenges which it says are a hindrance to harnessing the full benefits of labour migration. These include (Ministry of Labour and Employment 2018, 34):

- The current work permit system which is described as inadequate and cumbersome.
- Law enforcement agencies do not have the training and skills necessary to sensitise them about the rights of migrant workers.
- Migrant workers fall in a “grey zone” and while they do not receive social protection from their countries of origin, they are not able to access social protection rights that they may have in Lesotho.
- There is no guidance regarding which labour provisions should be included in trade and investment agreements with other countries.

Proposed interventions include a comprehensive review of the country’s work permit system, training for law enforcement officials, and better social security protection (e.g. extension and portability of pension benefits) for both immigrating and emigrating workers. Regarding Domestic Workers, the NLMP merely acknowledges that an increasing number of Basotho women seek employment in South Africa as domestic workers. It highlights the historical migration of workers to South Africa and states that by 2006, “female migrants constituted 30% of total Basotho migrant workers in South Africa” (Ministry of Labour and Employment 2018, 13). The Policy has no specific interventions for Basotho Migrant Domestic Workers in South Africa or elsewhere.

Ordinarily, the migration and entry of foreign nationals in Lesotho is governed by the Aliens Control Act (1966) – an archaic piece of colonial legislation which has been in force

⁷⁹ We are grateful to Gloria Moreno-Fontes of the ILO for making available the Lesotho NLMP document together with the NLMPs for Mauritius (summary PowerPoint), Namibia, Seychelles and Zimbabwe

since 1968, as well as the Refugees Act (18 of 1983). The employment of foreign nationals is regulated under the Lesotho Labour Code Order and the Pension's Proclamation of 1964.

The Lesotho Immigration and Citizenship Policy which was adopted by cabinet in 2017 aims to develop a new migration policy aligned with international and regional standards, and to set the framework for the negotiation of labour agreements with destination countries. This includes re-negotiating labour and other migration agreements with South Africa which is the main Basotho migrant-destination country. This historic reality of migration by Basotho nationals to South Africa for over a century has meant that there are enhanced migration flows between the two countries. In 2015, the South African government implemented a special permit (Lesotho Special Permit) to deal with the challenge of undocumented Basotho nationals, many of whom have been living in the country for a very long period (Interstate Immigration Service 2019).

MAURITIUS

Mauritius's NLMP is known as the "Migration and Development Policy".⁸⁰ It was approved by the government in 2018. A Steering Committee on Migration and Development has been set up in the Office of the Prime Minister to monitor the implementation of the NLMP. The overall goal of the NLMP is to maximize the benefits of labour migration for socio-economic development. It seeks to achieve this by:⁸¹

- Introducing schemes to attract foreign professionals, investors and high net-worth persons to come and work in Mauritius under the Occupation Permit Scheme and the Permanent Residence Permit Scheme;
- Recruiting migrant workers on the basis of scarce skills; and
- Attracting high-quality international academic institutions and students.

Mauritius ratified Convention No. 189 on 13 September 2012. It was the third country to ratify the Convention after Uruguay (14 June 2012) and the Philippines (05 September 2012) (ILO 2013).

Migration to Mauritius is regulated by the Immigration Act of 1973. Non-citizens may only lawfully enter the country if in possession of a permanent residence permit, or if they are resident or exempted persons (the latter includes all categories of visitors e.g. tourists, students, business persons, drama and films artists and other groups). Non-citizens are employed in terms of the Non-citizen (Employment Restriction) Act of 1973 (Government of Mauritius 2020a). A non-citizen may not engage in any occupation for reward or profit, or be employed in the country unless in possession of a valid work permit. At the same time, a person may not employ a non-citizen who does not hold a valid work permit. A range

⁸⁰ NB: We have relied on documentation that refers to Mauritius' NLMP but not on the Policy document itself. In the circumstances, our analysis of Mauritius' NLMP remains limited.

⁸¹ As indicated in the footnote above, we have only been able to access a PowerPoint presentation of Mauritius' NLMP. As such, specific referencing to pages is not possible.

of other laws regulate employment and working conditions for workers in the country (Government of Mauritius 2020b).⁸²

Until June 2021, migrant workers were not able to work as domestic workers in Mauritius and therefore domestic work by migrants has remained prohibited for many years (Ragoo 2021). In addition, women migrant workers who become pregnant are forced to leave Mauritius. While nothing in the law requires pregnant migrant workers to leave the country, it has become a widely established practice (Ragoo 2021).

Post-independence labour migration in the country accelerated in the mid-1980s with the state being active in recruiting workers for the Export Processing Zone. The source countries were India, Bangladesh, Sri Lanka and China (Lincoln 2012, 9). More recently, the government has created schemes to attract highly qualified and high-net worth individuals. At the same time, the government encourages young Mauritian workers to emigrate and seek employment opportunities abroad (Lincoln 2012, 3). Mauritius' migration system has been characterised as "state-led" (Lincoln 2012, 8).

NAMIBIA

Non-nationals in Namibia may only work in the country if in possession of a work permit or a permanent residence permit issued in terms of the Immigration Control Act (7 of 1993). Recognised refugees (in terms of the Refugees (Recognition and Control) Act, 2 of 1999) are also entitled to employment. Namibia's Labour Migration Policy was approved in July 2019 and formally launched on 10 July 2020. The NLMP Implementation Plan is for the period 2020/21 to 2024/25. There are 10 objectives sought to be achieved through the NLMP including the development of a labour migration system that benefits from the impact of migration to and from Namibia, effective border control, and the control of human trafficking, smuggling, child labour, forced labour and irregular migration.

Each of the objectives has a list of implementation strategies which are set out in detail in the implementation plan. Five of these strategies will suffice for purposes of the present discussion:

- Strengthening labour inspection at workplaces to ensure compliance with work permit conditions and obligations;
- Enhancing circular migration for skilled Namibians who go to work abroad;
- Adopting a proper legal/regulatory framework for the implementation of the NLMP;
- Extending services rendered by private employment agencies to migrant workers, with particular focus on promoting ethical recruitment and self-regulation among others;
- Finalising legislation to deal with the human trafficking;
- Ensuring access to and portability of social security benefits for migrant workers; and
- Ensuring enhanced collection, analysis and availability of labour migration data.

82 They include The Workers Rights Act of 2019, The Employment Relations Act of 2008, The Recruitment of Workers Act (1993) and the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations of 2011. (Government of Mauritius 2019; 2008; 1993; 2011)

Like other countries in the region which have adopted NLMPs, Namibia's policy is geared towards managing labour migration for socio-economic development. The Implementation Plan is very detailed with timeframes and targets, budgets and responsible institutions thus signifying a commitment by the government to ensure the effective implementation of the Plan. It is two years since the Namibian government approved the NLMP, and slightly over a year since the NLMP was formally launched. It is still too early to determine the extent to which the objectives of the NLMP have been realised. The Implementation Plan has targets of between 2% and 100% in the first year for the realisation of some of the strategies but it remains to be seen if these targets have been met.

SEYCHELLES

Seychelles has ratified the Migrant Workers Convention (1990) and signed the SADC Protocol on the Movement of Persons. It has not ratified Convention 189, the Private Employment Agencies Convention and the SADC Protocol on Employment and Labour.⁸³ Foreign nationals wishing to travel to and/or work in the Seychelles may be issued with six different types of permits in terms of the Immigration Decree (No 18 of 1979) and Immigration Regulations (32 of 1981). These permits are: (1) Dependant's Permit, (2) Residence Permit, (3) Student's Permit, (4) Visitor's Permit, (5) Gainful Occupation Permit and (6) International Trade Zone Work Permit.

It appears that migrant domestic workers may only lawfully work in the country if in possession of a Gainful Occupation Permit. According to the International Organisation for Migration (IOM), Seychelles is a country of both inwards and outwards migration. Foreign workers are a key element of the country's economic development. There is also a large diaspora of Seychellois living in different parts of the world (IOM 2021c). The majority of non-nationals in the Seychelles are of Indian origin. According to the IOM's Country Profile Report for 2013 (IOM, Poulain, and Herm 2014), Indians (3,977) represented more than half of non-Seychellois, followed by Malagasy (493), Filipinos (433), Sri Lankans (368) and Mauritians (340) (Republic of Seychelles 2019, 43ff, 46).

Seychelles adopted its National Labour Migration Policy in April 2019. The Implementation Plan has a time-frame of 5 years (from 2020 to 2024) in which to implement the NLMP's four primary objectives of ensuring (Republic of Seychelles 2019, 19):

1. That effective institutions, procedures, and regulations are in place to govern labour migration;
2. The protection of the rights of migrant workers;
3. The right mix of skills is available in the country in order to meet labour market needs; and
4. The promotion of fair and effective recruitment practices for all workers.

⁸³ See table of ratifications elsewhere in this section of the report.

The policy identifies a number of key areas of intervention (Republic of Seychelles 2019, 19–41). In respect of governance and labour migration, the NLMP emphasises that there should be better inter-ministerial coordination between the relevant departments of the state dealing with labour and migration, and structured consultations between government, employers, workers and civil society to address labour migration issues. In addition, coherent labour market and migration data will be addressed in order to inform policy debates, while the country will seek to develop/review existing bilateral labour agreements. The rights of all workers including migrant workers will be protected through addressing discriminatory wage practices, creating a fast-track mechanism to address the grievances of migrant workers, opening the social security system to migrant workers and addressing the problem of healthcare protection for migrant workers. The Government will also tackle negative attitudes and perceptions about migrant workers.

Domestic work is included as part of “other services” in the NLMP document (together with shopkeeping, health and education) and the NLMP states that this is one of the main sectors with a significant number of applications by migrant workers (Republic of Seychelles 2019, 11). There has been an increase in demand for women migrant workers to fill positions in domestic work and home care. Of the 32,364 applications received for approval between 2014 and 2018, 5,637 (17.4%) were for “other services”. This was the second largest category of applications after construction (15,722, or 48.6%) (Republic of Seychelles 2019, 11). Despite the apparent increase in the number of domestic workers in the Seychelles, domestic work remains a predominantly ‘low-skilled’ occupation (Republic of Seychelles 2019, 27).

ZIMBABWE

Since the mid-2000s, Zimbabwe has become by far the largest source country of migrant workers in the region.⁸⁴ The country’s policies, however, largely predate the Zimbabwean exodus and still assume that Zimbabwe is the migrant destination country it was until the late 1990s. The Immigration Act of 1979 (Government of Zimbabwe 1979) and the Immigration Regulations of 1998 (Government of Zimbabwe 1998) govern the entry and presence of non-nationals in the country. The Immigration Act makes provision for the issuance of study permits, temporary employment permits and residence permits.⁸⁵ At the same time, in terms of section 12(1) of the Refugees Act,⁸⁶ recognised refugees are entitled to the rights contained in the United Nations and African Union (AU) (formerly Organisation for African Unity-OAU) conventions on refugees meaning that foreign nationals enjoying refugee recognition in the country have a right to employment and may engage in the profession of their own choice.

84 See statistics in section 4 of this report. See also Mudungwe above

85 Section 19(a) read with Part III of the Immigration Regulations

86 Chapter 4:03) (Acts 13/1978 and 22/2001)

Zimbabwe's National Labour Migration Policy was adopted in 2020 and is divided into four sections, each with a set of key policy areas: governance of labour migration, protection and empowerment of migrant workers, harnessing labour migration for development and better management of labour Migration data (IOM 2020, 10–16). Of the five countries in the region that have adopted NLMPs, only Zimbabwe, and to a smaller extent, Lesotho,⁸⁷ make explicit reference in their policies to the need to create mechanisms to address xenophobia. Zimbabwe explicitly calls on countries of destination to enact legislation that prohibits and punishes xenophobic discrimination and violence.⁸⁸

OTHER COUNTRIES

Whilst acknowledging that a number of SADC Member States are in the process of developing national labour migration policies, the remaining eleven countries in the SADC region which have not adopted national labour migration policies, i.e., Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Madagascar, Malawi, Mozambique, South Africa, Tanzania and Zambia regulate migration and labour as separate facets using a range of national legislative and regulatory instruments. We briefly examine these policies and instruments below.

Angolan law requires that foreign nationals be employed either as resident employees or non-resident employees. At least 70% of an employer's workforce must be Angolan nationals while only 30% can be foreign non-resident individuals. Botswana has passed a special law – The Employment of Non-Citizens Act (CAP 47:02, 1981) – to regulate the employment of non-citizens. No foreign national may engage in any occupation for reward or profit in the country unless such person is the holder of a work permit or a certificate of exemption issued by the Minister responsible for labour. It has been argued that Botswana's once open migration policy has increasingly become restrictive, owing to large inflows of forced migrants from countries such as Zimbabwe and, to a smaller extent, Angola (Lefko-Everett 2004).

There is very little information available on the Comoros except regarding its ratification of international and regional labour migration instruments. Of the five international and two regional instruments discussed in this section, the Comoros has ratified only three of them.⁸⁹ The Comoros is neither a state party to the 1951 UN Convention and 1967 Protocol on Refugees, nor to the 1969 OAU Convention on Refugees (UNHCR 2013). According to the UNHCR, there are currently no asylum-seekers, refugees and stateless persons in the country (UNHCR 2013).

87 Lesotho's approach on xenophobia is inward, rather than outward, looking. Article 7.12 of its NLMP states that the Ministry of Labour and Employment "*in partnership with employers' organisations develop integration programmes aimed at sensitizing migrant and local workers to their respective rights and responsibilities and in general, encourage integration and discourage any form of xenophobia.*" (Ministry of Labour and Employment 2018)

88 The NLMP states that Zimbabwe will "*Develop comprehensive national anti-discrimination legislation and provisions to prohibit and criminalize xenophobic discrimination and perpetrators of xenophobic violence*" and that it will also "*Negotiate with receiving countries governments to put in place legislation that prohibit and criminalize xenophobic discrimination and perpetrators of xenophobic violence*" (IOM 2020, Section 2: 13).

89 See the table of ratifications above.

In the Democratic Republic of Congo, the hiring conditions for non-citizens are defined in the *Arête Ministériel* 70/0010, July 27, 1970; A.D. no 87/005, January 21, 1987 and in the *Note Circulaire* No 001 /ONEM /DG/DT/NN/2004. The country's Labour Code (*Code du Travail*) which was enacted in 1967 (and amended in 2002) regulates the working conditions of all workers. The percentage of the total workforce of foreign remunerated workers in a company may not exceed 15% (Yav & Associates 2022; IOM 2021b).⁹⁰

Madagascar's Decree No. 652 of 1994 (which repealed Decree No.101 of 1966) regulates migration in the country. Depending on the purpose and duration of the stay, a foreign national may be issued with one of two types of visas: a non-immigrant visa (short-term business visa, a stay of not more than 90 days) or an immigration visa (a long-stay visa) (Madagascar Immigration Services 2022). Foreigners may not work in the country without prior approval by the Minister of Employment and after approval of their contracts has been granted by a labour inspector (Government of Madagascar 2004). In 2013, Madagascar sought to prevent Malagasy nationals from going to the Middle East as domestic workers after concerns that such workers were being abused and receiving little to no protection from the states of destination (Ross and Solo 2014; project189 2013).

In terms of sections 21 to 31 of Malawi's Immigration Act of 1964 (read with the Immigration Regulations of 1968), a foreign national may be issued with one of six types of permits.⁹¹ The Refugees Act (No 3 of 1989) seeks to give effect to the 1951 UN Refugee Convention and its 1967 Protocol as well as the 1969 OAU Convention on Refugees. It's not clear if recognised refugees in the country are entitled to work as section 9 of the Refugees Act merely states that persons granted refugee status are subject to the laws of Malawi.

According to a report published by the IOM, Malawi is working to develop a comprehensive national migration policy with the assistance of the International Centre for Migration Policy and Development (ICMPD) (IOM 2015, 106). The IOM goes on to point out that Malawi has experienced increased immigration from Asian and neighbouring countries, as well as refugees and asylum-seekers. In addition, most migrants destined for other Southern African countries use Malawi as a transit country to stage their final trips to their intended destinations (IOM 2015, 70). The United Nations High Commissioner for Refugees (UNHCR) has recommended that Malawi accelerate the adoption of a migration policy and the enactment of the revised Refugees Act (UNHCR 2019).

Mozambique is a source, transit, and destination country for regular, irregular and forced migration (IOM 2021a). Other types of migration include nomadism and cross-border movement with neighbouring countries. Traditionally, Mozambique has been one of the major countries of origin for migrant workers in the region. Mozambican nationals are found in South African mines, as well as in agriculture, construction and private households (IOM 2021a). The IOM cites estimates from a 2010 World Bank report that approximately 11.7 million Mozambicans have migrated temporarily and permanently (IOM 2021a, 11) thus making Mozambique one of the highest countries of origin for migrant workers in the region.

⁹⁰ This permit is issued for persons who have been offered specific employment by specific employers.

⁹¹ These permits are: Permanent Residence Permit (s22); Temporary Residence Permit (s24); Business Residence Permit (s24A); Temporary Employment Permit (s25); Visitor's Permit (s26) and Student Permit (s31).

South African mines have for many years been the primary destination for male Mozambican migrant workers and slightly over a decade ago, Mozambican mineworkers made up 25% of the country's goldmine workforce (De Vletter 2006). Mozambique's Immigration Act (Law No 5/1993) makes provision for foreign nationals to be issued with one of eight different types of visas (diplomatic, courtesy, official, residence, tourist, transit, visitors and business).⁹²

South Africa's migration policy is manifested through the Immigration Act (13 of 2002), the White Paper on International Migration (2017), and, to an extent, the Refugees Act (130 of 1998). The overall approach of both the Immigration Act and the White Paper is the creation of a framework for the attraction of highly skilled migrants to the country. The White Paper aims to comprehensively review the policy framework set out in the 1999 White Paper on International Migration. It makes a number of recommendations and strategic interventions in eight policy areas including the management of international migrants with skills and capital, the management of international migration within the African context, the management of asylum seekers and refugees and the management of the integration process for international migrants (p35-67). Domestic work is generally considered as a low-skill sector (Vanyoro 2019). South Africa does not have a specific policy on migrant domestic workers and such workers are generally protected by the country's labour law (Peberdy et al. 2006).

Box 6: Case Study: Zimbabwe and Lesotho Special Permits in South Africa

To deal with the large number of Zimbabweans who moved into South Africa following the political and economic crisis in the country between 2002 and 2008, the South African government, in 2009, introduced a special dispensation (exemption) for Zimbabwean citizens. Undocumented Zimbabweans who were in the country were granted a Dispensation of Zimbabweans Project (DZP) permit lasting four years until 2014.⁹³ This permit was replaced by the Zimbabwean Special Dispensation Permit (ZSP) between 2015 and 2017 and eventually by the Zimbabwean Exemption Permit (ZEP) which will expire in December 2021, with a one-year grace period to apply for alternative permits or status ("Zimbabwean Special Dispensation Permits" 2021; VFS Global 2022b). At the time of writing in mid-December 2021, the South African government had announced that it would not be extending the ZEPs past December 2021 (Department of Home Affairs 2021), then withdrew this announcement after significant pressure from civil society (Lawyers for Human Rights et al. 2021), but did not provide clarity on the form of extension. This decision stands to affect over 200,000 Zimbabwean holders of the ZEP, many of whom are unlikely to qualify for any other permit in South Africa despite having lived and worked in the country for many years (Washinyira 2021).

⁹² Section 1(a) of the Act, Section 30 of the Act

⁹³ While the permit was (and has been) generally open to all undocumented Zimbabweans in South Africa, one of its conditions was that an applicant should not have a criminal conviction.

The Lesotho Special Permit (LSP) is similar to the Zimbabwean permit. It is granted to Basotho who are working, studying or running businesses in South Africa and who have been in the country in such capacity since before 30 September 2015 (VFS Global 2022a).

Both the Zimbabwean and Lesotho special permits are the product of bilateral agreements between the South African government and the governments of the two countries (Department of Home Affairs 2015). The permits are a reaction to the difficult political and economic circumstances in the two countries which have resulted in large numbers of their citizens moving to South Africa in search of better economic opportunities. Many of the migrants are persons whose skills, qualifications or socio-economic status would not enable them to get work or business visas for South Africa. The special dispensation permits prohibit their holders from obtaining permanent residence in the country. A group of Zimbabweans has now approached the South African High Court with a request that the court declares them to be entitled to permanent residence on the basis of their special permits.⁹⁴

Given the total numbers of Zimbabwean and Basotho domestic workers in South Africa, the LEP and especially the ZEP and its predecessors were the single largest and most successful initiatives to improve the living and working conditions of migrant domestic workers in the Southern African region, even though this was an unintended effect of the policy.

Tanzania's Immigration Act (2016) and the Refugees Act (1998) permit non-citizens to work in the country if in possession of the relevant visa or work permit which is issued in terms of the Non-Citizens (Employment Regulation) Act.⁹⁵ The Aliens Immigrants Board advises the government on issues of business, employment and residence permits.⁹⁶ A survey of domestic workers conducted by the ILO in Tanzania in 2016 estimated that there were 883,779 domestic workers in mainland Tanzania and 203,622 in Zanzibar (Kiaga, Ackson, and ILO Country Office for United Republic of Tanzania 2016, 17). The survey did not find a significant number of foreign domestic workers (0.19%, or 2,066 workers out of a total of 1,087,441 domestic workers) in the country (Kiaga, Ackson, and ILO Country Office for United Republic of Tanzania 2016, 102). Overall migration rates in Tanzania remain lower than expected in comparison to other countries in sub-Saharan Africa with similar socio-economic conditions (Blocher and Kileli 2020, 4).

94 *Zimbabweans ask Gauteng High Court to declare them permanent residents*, 20 October 2021. Available at <https://www.moneyweb.co.za>

95 Granted in terms of section 30 of Immigration Act

96 Established in terms of section 31 of the Immigration Act



Zambia's Immigration and Deportation Act (18 of 2010) makes provision for various kinds of permits to be issued to foreign nationals to enter and reside or work in the country. These include residence, spousal, business, study and employment permits.⁹⁷ The Refugees Act (1 of 2017), which replaced the Refugees (Control) Act of 1970, states that recognised refugees may be issued with a work permit or study permit,⁹⁸ they have the right to establish their own commercial or industrial businesses in accordance⁹⁹ and they also have the right to choose a trade, an occupation or a profession.¹⁰⁰

According to the IOM (IOM 2019), Zambia's Seventh National Development Plan 2017–2021 (7NDP) mainstreams migration, while migration policy development is explicitly mentioned in Pillar 5 of the NDP (IOM 2019, xxviii). Zambia's policy framework on migration is underpinned by the country's Vision 2030, the 7NDP, Zambia's National Diaspora Policy (2019), the National Social Protection Policy and the Policy to Combat Human Trafficking (2007) (IOM 2019, 78–81). There are many migrant domestic workers in the country but they are in irregular employment, without work permits, and performing hidden work.¹⁰¹ Domestic work is not considered as a rare skill and therefore a migrant is unlikely to be granted a work permit as a domestic worker. The effect is that many migrant workers enter the country as relatives of permit holders and then go on to work as domestic workers or drivers of such permit holders. There are also many undocumented migrants from Zimbabwe who enter the country as visitors and stay on, and then acquire national documents.¹⁰²

⁹⁷ Immigration permits are provided for in sections 20–32 of the Act

⁹⁸ Section 41 of the Act

⁹⁹ Section 42

¹⁰⁰ Section 43

¹⁰¹ Interview with Key Informant on 01 October 2021

¹⁰² Ibid

6. Labour rights and working conditions

6.1. Labour rights for domestic workers

Domestic workers are covered by labour legislation throughout the region. While labour law inclusion is a critical foundation for reaching decent work for domestic workers in the region, research has found that the vast majority of workers in the region do not have meaningful access to these rights due to high levels of informality and vulnerability, and low levels of awareness and enforcement.

6.1.1. National regulation of domestic work

Four SADC member countries have ratified the Domestic Worker Convention, with Mauritius and South Africa as relatively early adopters. Domestic workers are protected under the general labour law in every country in the region and nine countries have legislation specific to domestic work.

Table 9: Inclusion of domestic workers in general labour law or specific domestic worker legislation

Ratified C189	Covered by general labour law and by specific domestic worker legislation		Covered by general labour law only	
Mauritius (2012)	Angola	Seychelles	Comoros	Madagascar
South Africa (2013)	Botswana	South Africa	DRC	Tanzania
Madagascar (2019)	Mauritius	Zambia	Eswatini	
Namibia (2020)	Mozambique	Zimbabwe	Lesotho	
	Namibia		Malawi	

Whether through general labour laws or specific legislation, domestic workers are entitled to basic workplace rights in all countries in the region. Industry-specific legislation is often beneficial in that certain aspects of domestic work, such as conditions of live-in accommodation, and extended working hours (including standby and night shifts), may not be covered under general labour laws. It also recognises domestic work as a formal profession, which is critical in creating a culture of labour law compliance.

Table 10 provides detail for each country on how domestic work is governed, labour protections in five areas of the law as indicators, as well as coverage in social protections and migrant rights.

Table 10: Labour Protections Summary

DOMESTIC WORKER LEGISLATION AND SOCIAL PROTECTIONS										
	Governance	Migrant workers included in labour law	Minimum Wage	Maximum Weekly Work (Hours)	Weekly Rest (Hours)	Annual Leave (Days)	Maternity Leave	Maternity Benefits	DWs eligible for social protection (in part or in full)	MDWs eligible for social protection
Angola	General labour law and specific legislation	Yes	Yes	44	1 day	22	90 days	Yes, through social security scheme	Yes	Yes
Botswana	General labour law and specific legislation	Yes	Yes (lower than other sectors)	60 (240 over 4 weeks)	24	1.25 per month worked.	~12 weeks (Can start up to six weeks before due date, and must be given 6 weeks after birth)	Yes, employer paid	No	No
Comoros	General Labour Law	Yes	Yes	40	24	2.5 per month worked	14 weeks	Yes, employer or social security paid	No	No
Democratic Republic of the Congo	General Labour Law	Yes	Yes	45	48	1 per month	14 weeks	Yes, through social security scheme	Yes	No
Eswatini	General labour law and specific legislation	Yes	Yes	48	24	13	12 weeks	Yes, employer paid	No	No

DOMESTIC WORKER LEGISLATION AND SOCIAL PROTECTIONS										
	Governance	Migrant workers included in labour law	Minimum Wage	Maximum Weekly Work (Hours)	Weekly Rest (Hours)	Annual Leave (Days)	Maternity Leave	Maternity Benefits	DWs eligible for social protection (in part or in full)	MDWs eligible for social protection
Lesotho	General Labour Law	Yes	Yes	45	24	12	12 weeks	Yes, employer paid	Yes	No
Madagascar	General Labour Law	Yes	Yes	40 (173.33 per month)	24	2.5 per month worked	14 weeks	Yes, employer paid	Yes	Yes
Malawi	General Labour Law	Yes	Yes	48	24	18 (if working 6 p/week; 15 (if working 5 p/week)	8 weeks	Yes, employer paid	No	No
Mauritius	General labour law and specific legislation	Yes	Yes	48	24	14	12 weeks	Yes, employer paid	Yes	Yes
Mozambique	General labour law and specific legislation	Yes	No	54	24	12 in first year, 24 in second year, 30 in third year and after	60 days	Yes but only if top tier social security scheme is selected.	Yes, but must register as self employed	No
Namibia	General labour law and specific legislation	Yes	Yes	45	36	4 consecutive weeks of annual leave	12 weeks maternity leave	Yes, through social security scheme	Yes	Yes

DOMESTIC WORKER LEGISLATION AND SOCIAL PROTECTIONS										
	Governance	Migrant workers included in labour law	Minimum Wage	Maximum Weekly Work (Hours)	Weekly Rest (Hours)	Annual Leave (Days)	Maternity Leave	Maternity Benefits	DWs eligible for social protection (in part or in full)	MDWs eligible for social protection
Seychelles	General labour law and specific legislation	Yes	Yes	60	24	24	20 weeks	Yes, through social security scheme	Yes	Yes
South Africa	General labour law and specific legislation	Yes	Yes (lower than other sectors)	45	36 consecutive every week, or 4 times a month, or 60 consecutive hours at least twice a month.	21 consecutive, or 1 per 17 days worked.	4 months	Yes, through social security scheme	Yes	Yes
Tanzania	General Labour law	Yes	Yes, lower than other sectors except those employed by diplomats and "potential businessmen"	45	24	28	84 days	Yes, employer paid	Yes	Yes
Zimbabwe	General labour law and specific legislation	Yes	Yes	49	1.5 days each week; 24 hrs must be continuous.	1 calendar month	98 days	Yes, employer paid	No	No
Zambia	General labour law and specific legislation	Yes	Yes	48	24	2 per month worked	120 days	Yes, employer paid	Yes	No

The African Union's Migration Policy Framework and Plan of Action bids member states to "ensure that national laws, including constitutional, administrative and civil law and labour codes, provide women migrant workers, in particular domestic workers, with the same rights and protection that are extended to all workers" (AU 2018, 35).

Data from the ILO 2021 report indicates that in most countries in the region, domestic workers are legally entitled to the same labour rights as workers in other sectors, but with partial disparity in many countries, and some concerning exclusions. Table 11 provides an assessment of the extent to which domestic workers' rights are equal to those of other workers in the same country.

Table 11: Domestic Workers Labour Rights

	Angola live-in	Angola live-out	Botswana	Madagascar	Mauritius	Mozambique	Namibia	Seychelles	South Africa	Tanzania	Zimbabwe
Weekly hours	1	2	2	1	2	1	1	1	1	1	1
Weekly rest	1	1	1	1	1	1	1	1	1	1	1
Annual leave	1	1	1	1	2	1	1	1	1	1	2
Minimum wage	2	2	2	1	1	3	1	1	1	1	1
In-kind payment	2	2	2	2	1	3	1	1	2	2	1
Maternity leave	1	1	1	1	2	1	1	1	1	1	1
Maternity cash benefits	1	1	1	1	2	1	1	1	1	1	1

1 = Protection equal to or more favourable than for other workers

2 = Protection less favourable than for other workers

3 = No protection in place.

It is important to note that in some of the above countries, general labour protections for all workers may be poor, so equality under the law does not necessarily mean adequate labour protections for domestic workers. Secondly, the chart lists six areas of regulation as indicators and does not include some critical areas such as contractual requirements and termination processes.

Examples of protections for domestic workers in the region which go beyond the standard regulatory framework include:

Table 12: Domestic Workers protections beyond standard regulatory framework

Governance	<ul style="list-style-type: none"> • South African law requires domestic employers to keep a copy of the domestic work labour regulations at their home for workers to access.
Leave	<ul style="list-style-type: none"> • Workers in the Seychelles can allocate their unused sick leave to care for a sick child or dependent. • Mozambican law increases the number of annual leave days for workers based on the duration of their employment, for the first three years.
Wages	<ul style="list-style-type: none"> • Mauritius requires a meal allowance if working past 6pm or working offsite. • Domestic workers in Mauritius and Seychelles are entitled by law to an annual bonus of at least one month's salary.
Parental rights	<ul style="list-style-type: none"> • Male domestic workers in the Seychelles are entitled to a full 16 weeks of paternity leave if the child's mother has passed away. • Many countries, including Eswatini, Mauritius, Madagascar, Lesotho, and Zimbabwe, legislate paid time off in the workday for nursing, and Zambia provides for paid leave if a hospitalised infant needs to be nursed.
Human rights	<ul style="list-style-type: none"> • In Seychelles and Namibia, minimum accommodation standards are set for live-in workers, and employers are prohibited from charging rent. • Workers' rights to have visitors and to visit others outside of working hours are explicitly protected in the Seychelles and Namibia. • Zimbabwe specifically prohibits employers or agents from retaining workers' passports or identity documents or other personal documentation. • South Africa requires employers to provide 30 days of continued accommodation for live-in domestic workers who have been dismissed.

The legal recognition and move towards rights equality for domestic work, as shown in Tables 9, 10, 11 and 12 are important for securing rights for women in the region. However, they do not necessarily reflect a strong foundation of labour protections in each country.

In some cases, sector-specific legislation is used to exempt domestic workers from rights conferred on all other workers, or create terms favouring employers. For example, in Botswana the Domestic Employees Regulations (S.I. 156, 1984) serves solely to exclude domestic workers from general labour law provisions:

- Domestic employers are exempt from the requirement to keep records and accounts of employment matters.
- Domestic workers are excluded from the limit of 48 hours per week. The maximum in the domestic sector is 240 hours per month (~60 hours per week), a full 25% more hours than other workers in the country.
- Domestic workers are granted only 4 of the country's 8 public holidays.
- Domestic workers are excluded from the section of the law addressing employer provision of housing, food, medical care, and related support in "Labour Health Areas".
- Domestic work is excluded from all standards and regulations relating to worker recruitment.

The Mozambican Regulation of Domestic Work (Decree No. 40/08) includes some concerning provisions, such as:

- Required notice period when a worker resigns (including financial compensation for employer if notice is insufficient), but no reciprocal notice required for employers when terminating the contract.
- Repeated emphasis on disciplinary rights of employers, and no disciplinary process required when imposing penalties on the worker.
- Classification of domestic workers as “self-employed” for purposes of social security, absolving employers of obligation to register the worker or make contributions.
- Provision of only 3 days of paid sick leave per year, while other workers have the right to 15 days.
- Allowance of up to 25% salary deduction for housing.
- No minimum wage.
- Allowance of wage and annual leave deductions for “unjustified absences”.
- Permission of children from the age of 12 years to work as domestic workers with parental approval.

In the Seychelles, domestic workers are excluded from the general labour provisions requiring fair reason and process for termination of employment, and their annual increase is substantially smaller than that of other workers under the labour law.

A recent study on the rights of live-in domestic workers highlights a number of rights which fall through the cracks of the legal protections for domestic workers in South Africa (Solidarity Center et al. 2021). These gaps in the law include:

- Clear minimum standards for housing of live-in workers.¹⁰³
- Protection of workers’ freedom of movement during off hours.
- Protection of live-in workers’ right to socialise and have visitors.
- Protection of workers’ right to privacy.
- Equality for workers residing in the staff quarters of apartment buildings and housing complexes.¹⁰⁴

Some of these rights are generally protected in the Constitution, but without clear and explicit application to the labour environment, they are ignored by employers and difficult for worker organisations and unions to enforce. Employers’ private property rights and security concerns often supersede workers’ basic right to dignity, with substantial impact to their working conditions and quality of life. For example, employer restrictions on socialising isolate the worker, increase the power imbalance, cement her or his dependency on the employer, and limit possibilities for worker efforts to organise. Many of the legal issues underpinning these violations are not addressed by either courts or the legislature. They are constitutionally complex as they occur in the private sphere, with competing private interests (Solidarity Center et al. 2021).

¹⁰³ Existing guidelines only apply to situations where employer deducts a salary percentage for housing.

¹⁰⁴ Research found that the Conduct Rules and practices of Sectional Title complexes and Housing Associations frequently impose unconstitutional and discriminatory restrictions on domestic worker residents.

Are migrant domestic workers protected under the labour laws of destination countries?

Our research found that in all countries in the region, migrant workers have the right to labour protections.

Table 13: Migrant worker labour protections

Angola	Botswana	Madagascar	Mauritius	Mozambique	Namibia	Seychelles	South Africa	Tanzania	Zambia
1	1	2	1	1	1	1	1	1	2

1 = Migrant workers are protected by labour laws to the same extent as nationals

2 = Migrant workers are protected by partial application of labour laws, and in part by other forms of regulation (e.g contract law, immigration law, mandatory standard contracts)

However, in most cases (with the only clear exception being South Africa), these protections are not extended to undocumented migrant workers. In South Africa, the Constitution has set an important precedent by granting all workers in the country equal protection under the labour law, including undocumented migrants.

In Botswana and Namibia, migrant domestic workers with valid work permits are protected by the relevant labour legislation. However, in both countries it is rare for a domestic worker to be granted a work permit, and so the vast majority of migrant domestic workers are undocumented. As such, most migrant domestic workers in Botswana and Namibia are excluded from the labour law and unable to file complaints if they are mistreated by employers.

6.1.2. Enforcement of labour regulation

Once the legal frameworks are in place to protect workers, adequate accountability and enforcement is needed to ensure compliance. Formally, the labour laws governing domestic workers in the region can usually be enforced through one or more of the following institutions: a conciliation and mediation body (or process), the Labour Department or Ministry, and the Labour or Industrial Court.

However, according to workers and worker representatives interviewed for this research, meaningful enforcement is complicated by the informality of employment arrangements (with only a minority of employers keeping written contracts and other documentation), lack of access to institutions outside major urban areas, and workers' lack of knowledge about their rights or the enforcement processes. Due to widespread informality and social norms, households that employ domestic workers do not consider themselves as employers, and do not know or regard the labour law. Similarly, many workers do not recognise that they are entitled to any labour protections. In many countries, there is also minimal political

will to enforce labour regulations, which is further weakened by the fact that legislators and enforcement officers are themselves domestic employers who may benefit from the unregulated environment. Rights enforcement, therefore, feels out of reach for most domestic workers, whether local or migrant.

“Our employers are abusing us physically, emotionally and mentally but we are scared to report them because we might lose our jobs.”¹⁰⁵

For domestic workers who do lodge claims, reports from Mozambique and South Africa emphasise mediation as the most effective means of resolving labour disputes for domestic workers. In Mozambique, mediation often allows for better outcomes as settlements can improve on the limited protections in the domestic workers’ labour law, which most employers have not read (Castel-Branco 2019). The South African Commission for Conciliation, Mediation and Arbitration (CCMA) regularly enforces the labour rights of undocumented migrant workers, without threat of reporting or deportation. However, there have been reports of prejudiced behaviour against local and migrant domestic workers at CCMA offices. Furthermore, some workers are not able to lodge a claim at the CCMA because they do not have a passport.¹⁰⁶ In Botswana, labour issues for citizens and documented migrants can be resolved through the labour mediation process, but this process is not always fair toward workers. Undocumented migrants in Botswana sometimes go to the police in cases of abuse. The police are reportedly active in addressing the situation, but workers are often deported once it has been resolved.¹⁰⁷

A barrier to the enforcement of domestic workers’ rights across the region are the private property laws preventing labour inspectors from entering private homes (and thus domestic workplaces) without permission. Furthermore, inspectorates are generally under-resourced and do not have the capacity to do proactive checks or follow up on complaints in an industry with only one worker per employer. Labour inspectors can be biased or corrupt, and may present threat of deportation for undocumented workers. Despite Constitutional protection of all workers’ rights in South Africa, workers without valid work permits have been turned away when reporting mistreatment directly to the Department of Employment and Labour (DEL). Furthermore, the DEL has been reported to have officers from the Department of Home Affairs accompany DEL officials on labour inspections, putting undocumented workers who lodge complaints at risk of deportation (Solidarity Center forthcoming).¹⁰⁸

In Malawi, issues that cannot be resolved through employer consultations by the union get taken to the labour court, which has extensive backlogs of cases resulting in extended wait periods (CIAWU Malawi, n.d.). In many countries, labour courts can be difficult for domestic workers to access, as the financial, emotional and time costs outweigh the potential benefit, and employers have much better access to legal support (Castel-Branco 2019; Solidarity Center forthcoming).

¹⁰⁵ Migrant domestic worker research respondent, South Africa

¹⁰⁶ For more information on the experiences of domestic workers in South Africa at the Department of Labour and CCMA, see (Solidarity Center forthcoming)

¹⁰⁷ Interviews, Lungile Moyo, Flora Kedibonye

¹⁰⁸ This has been reported in the agricultural sector, not in domestic work.



6.1.3. Social protection

The atypical nature of domestic work classifies it as “difficult to cover” by social security schemes (ILO 2016b). Complicating factors include high turnover, multiple employers for one worker, limited visibility and control of private households, frequency of in-kind payment, irregular wage payments, and lack of formal employment contracts. It is estimated that 90% of domestic workers worldwide are legally excluded from social security systems (ILO 2016b).

Most countries in the region have contributory social protection schemes for which domestic workers are eligible, in part or in full. Schemes include various combinations of unemployment insurance, pension fund, and compensation for injury, sickness and disability benefits, and family and maternity benefits. In some of these countries, workers may be eligible for only one social protection scheme while excluded from all other schemes. In 2005, the Seychelles Social Security Fund reduced the monthly contribution amount for domestic workers in order to encourage registration (Seychelles Revenue Commission 2021). Upon ratifying C189, the government of Mauritius agreed to pay the full workers contribution for pension and unemployment insurance on behalf of domestic workers (ITUC 2012). In South Africa, domestic workers recently won the right to be added to the compensation for injury scheme.¹⁰⁹

Botswana and Comoros do not have contributory social protection schemes for any workers, and in Eswatini, Malawi and Zimbabwe, domestic workers are explicitly excluded from these schemes.

In Mozambique, domestic workers are classified as self-employed under the social security system, even though they do not meet the relevant criteria, and are categorised as employees under the labour law. This absolves employers of making any social security contribution and increases the cost and administrative burden for workers (Castel-Branco 2019).

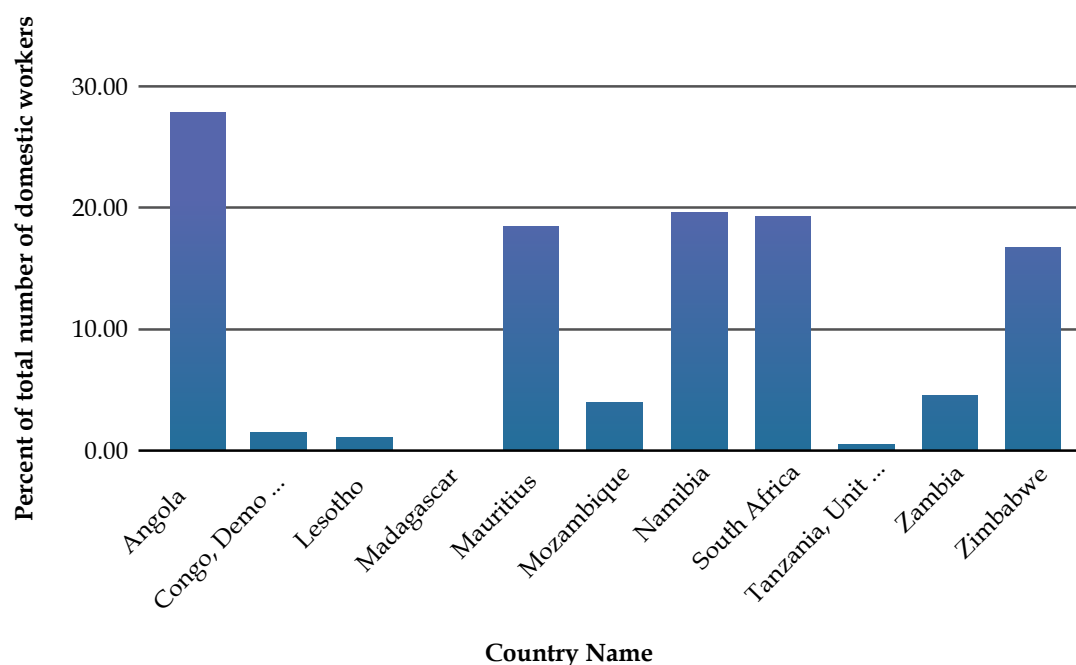
Free basic health care, to which domestic workers have access, is provided in a majority of countries, including Angola, Botswana, Eswatini, Madagascar, Malawi, Mauritius, Namibia, Seychelles, South Africa, Tanzania, and Zambia. However, in some of these countries migrant workers may have restricted or no access to public health services, and the quality of public health care varies greatly among countries.

Despite the majority of countries providing some coverage, often due to hard-won efforts of unions and civil society, legal inclusion of domestic workers in such schemes has proven hollow. In every country reviewed, only a minority of domestic workers are actually registered for the available social protection schemes. This is due to lack of awareness about protection schemes, pervasive social norms of informal employment, technical and procedural challenges, capacity and willingness to pay contributions, and general employer non-compliance with all labour regulation. Furthermore, as noted in 6.1.2 above, limited political will and broader issues with labour enforcement mechanisms have resulted in little to no monitoring of employers of domestic workers.

¹⁰⁹ (Mahlangu and Another v. Minister of Labour and Others, ZACC 24 2020)

Below are estimates of the percentage of domestic workers covered by at least some social protection schemes in countries of eligibility.¹¹⁰ Note that half of the countries shown have less than 5% registration of domestic workers in one or more social protection scheme, and all have less than 30%.

Figure 8: Percent of Domestic Workers registered in social protection schemes



Box 7: Social protection for migrant domestic workers in key destination countries

According to ILO data, only five countries in the region, Mauritius, Namibia, South Africa, Tanzania, and Zambia, include non-citizen workers in contributory social protection schemes (ILO 2021).

Botswana does not have contributory social security schemes for any workers. As in other countries, there are a number of non-contributory social protection benefits, such as public health care and old-age grants (IPCIG/UNICEF et al. 2016). However, these are available to citizens only. Migrant domestic workers in Botswana have created monthly savings groups to cover the costs of private clinics when unexpected health issues arise, as they are not able to access the public health system.

¹¹⁰ ILO database on social security protections for domestic workers (which informed 2021 report), unpublished.

In Namibia, domestic workers are eligible for social security, but few employers actually comply. Undocumented migrants are not included in the scheme, and very few migrant workers in Namibia are able to obtain a work permit, so migrant domestic workers are excluded by default.

In South Africa, through the extensive efforts of unions and civil society over decades, documented migrant workers have access to the Unemployment Insurance Fund (which includes maternity, disability, sickness and death benefits) and recently, the Compensation for Injury and Disease Fund (COID).¹¹¹ Refugees and asylum seekers were initially excluded from access to these funds as an ID or passport number was required to submit claims. However, a 2017 court case set precedent forcing the Department of Employment and Labour to include workers on asylum permits in UIF, and this was operationalised in 2020.¹¹² The online UIF registration system still does not allow for non-South African ID numbers, forcing employers who are not South African, or who employ a non-South African, to register manually, with extended processing times.¹¹³

South Africa does not have a state pension fund. A number of social grants are available to citizens and permanent residents; as the types of residence permits used by domestic workers do not provide a path to permanent residency, all migrant domestic workers are effectively excluded from these grants. Undocumented migrants have access to public health care, but non-citizens are asked to pay a large deposit up front, which most domestic workers cannot afford. Migrant workers have reported mistreatment or poor service at public hospitals due to their non-citizen status (Izwi Domestic Workers Alliance, n.d.). Furthermore, although all children in South Africa have the constitutional right to an education, migrant children without documents are often kicked out of schools or unable to register. With legal assistance, parents can force the school to admit their child, but most migrant domestic workers do not have access to such support (Izwi Domestic Workers Alliance, n.d.).

“Our children can’t go to school because of documentation. Mine was born in South Africa but is not schooling. Home affairs is not helpful.”¹¹⁴

111 Undocumented workers can be registered for these schemes, but will not be able to make claims without a valid residence permit.

112 (Saddiq v Department of Labour (Vereeniging) and Others 2017) (unreported judgement of the Equality Court for the Sub-District of Emfuleni, held at Vereeniging, Case No: EQ04/2017)

113 Interview, Estelle Carsens

114 Migrant domestic worker research respondent, South Africa

6.1.4. Actual working conditions

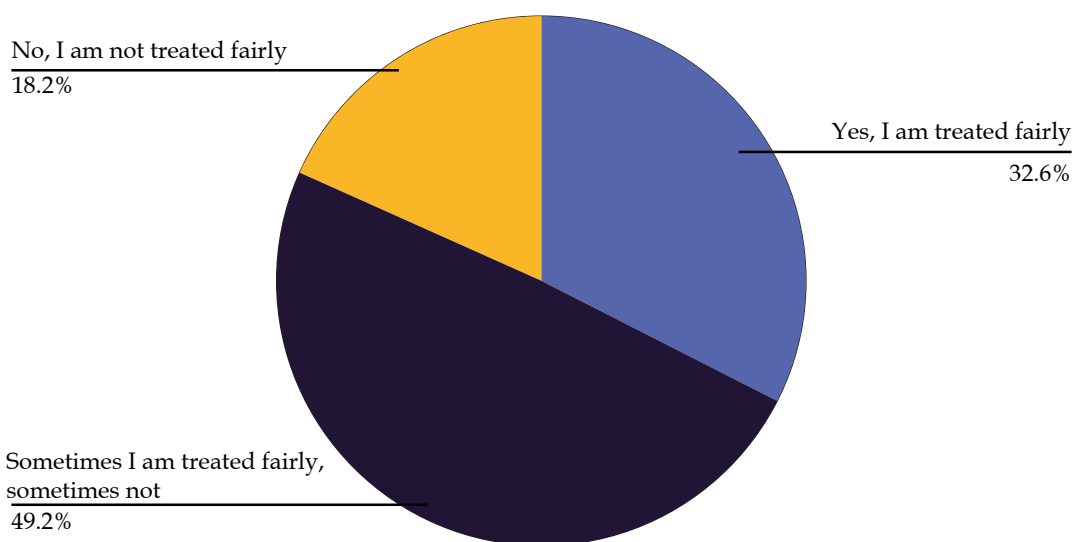
While all countries in the SADC region have some legal framework for protecting the labour rights of domestic workers, there are enormous gaps in compliance. In every country these rights are not reflected in the actual workplace conditions and treatment. While there are fair and decent employers, workers are reliant on their goodwill rather than accountability to the law.

Of 132 migrant domestic workers in Botswana, Namibia, and South Africa surveyed for this research, just over 30% feel they are treated fairly by their employer. This reflects not only working conditions, but also the workers' level of expectations.

27% of respondents in South Africa, 16% in Namibia and none in Botswana had written contracts. 89% of respondents in South Africa are not registered for the Unemployment Insurance Fund. Some workers reported that they are happy with their work situation and feel they are treated fairly.

Figure 9: MDW survey results: Fair treatment by employer

Do you feel you are treated fairly by your employer? (If unemployed, please answer about your most recent employer)



Positive feedback from migrant domestic workers interviewed for this research included:

- Respectful and considerate treatment from bosses
- Employer payment of their children's school fees and other gifts
- Decent working hours
- Payment of minimum wage or above
- Ability to send money to family members at home
- Ability to cover costs, educate children and reach personal goals
- A better life in the destination country than would be available at home

*"I am able to feed a family of 20 back home"*¹¹⁵

*"I can save money and send to my mom to pay for school fees for my kids."*¹¹⁶

*"The money helps us to look after ourselves and we learn a lot of things like cooking and different cultures."*¹¹⁷

*"They pay my sons' school fees back home without subtracting from my pay. I eat what they eat and we respect each other."*¹¹⁸

Respondents in Botswana had significantly more positive feedback about their working conditions than those in South Africa and Namibia (over 60% felt they were treated fairly overall, as opposed to 27% and 11%, respectively). Limited conclusions can be drawn from this due to the small sample size and anecdotal nature of the survey. Nevertheless, it is interesting and surprising as migrant domestic workers in Botswana have significantly fewer rights than in South Africa, and none of the Botswana respondents were involved with a union or support organisation.

Results of extensive ILO studies on domestic workers' satisfaction found it is not uncommon for migrant domestic workers to express satisfaction with their working conditions, even when these are very poor. That satisfaction may be based simply on having employment, rather than a quality of working conditions. "Workers' level of dissatisfaction with the employment relationship, and thus their motivation to seek legal redress in the event of abuse, is often mediated by the extent of their knowledge about their rights, the perception that their working conditions at destination are better than they would be at origin, and the number of years that they have spent in the country of destination" (ILO and Tayah 2016, 59).

About half of our survey respondents felt they were treated unfairly sometimes, and 18% unfairly overall. Primary complaints from migrant domestic workers are relatively consistent across countries, and include:

- Long working hours
- Low wages, often below minimum wage
- Lack of overtime pay
- Late and incomplete salary payments
- Lack of salary payment for extended periods
- Frequent accusations of theft
- Salary deductions for breakages and accused theft

¹¹⁵ Migrant domestic worker research respondent, South Africa

¹¹⁶ Migrant domestic worker research respondent, Namibia

¹¹⁷ Migrant domestic worker research respondent, Botswana

¹¹⁸ Migrant domestic worker research respondent, South Africa

- Verbal abuse by employers and their children
- Sexual harassment and abuse
- Physical abuse
- Lack of access to decent food
- Denial of sick leave and annual leave
- Inadequate housing for live-in workers

Box 9: The Voices of Migrant Domestic Workers

I'm not allowed to go to the clinic. When I'm sick I'll be given all pain killers and not allowed to take sick leave they will always say take it easy, do it slowly by slowly.¹¹⁹

I'm working too much hours but getting less payment. They are giving me expired food. In my room I don't have electricity; we are eating some leftovers every time because we don't have electricity.¹²⁰

I was verbally abused by being told I'm not educated, I'm a foreigner (kwere kwere) and will scrub floors for life.¹²¹

I was starting work at 4am and knocking off around 11pm in my previous job.¹²²

Sometimes you've been treated well but when it comes to receive your salary there is always conflict. They blame you that you don't clean properly and other things but you take what you are given cause you fear you will end up fired.¹²³

I am sleeping in the shack behind my employer house and in the raining season it is leaking.¹²⁴

It is difficult if you come in the country and your own family treats you like a dog and you work hard but don't get paid well. My employer calls me names and said I'm useless.¹²⁵

In the Seychelles, the Association for Rights Information and Democracy noted, at the 2019 promulgation of domestic worker labour protections, that in the country:

“Many expatriate domestic workers are being ill-treated, physically and physiologically abused and even deprived of their basic human rights including forced labour. In some cases, the department of employment has been slow to react and ineffective” (Seychelles Nation 2019).

¹¹⁹ Migrant domestic worker research respondent, South Africa

¹²⁰ Migrant domestic worker research respondent, South Africa

¹²¹ Migrant domestic worker research respondent, Botswana

¹²² Migrant domestic worker research respondent, Botswana

¹²³ Migrant domestic worker research respondent, Namibia

¹²⁴ Migrant domestic worker research respondent, Namibia

¹²⁵ Migrant domestic worker research respondent, Namibia

The various experiences described above are not limited to migrant workers. As reported in numerous ILO reports, qualitative research reports, media statements, and advocacy documents, local domestic workers across the region suffer from mistreatment and exploitation, citing the very same complaints. Local domestic workers still face discrimination, based on class, gender, race, education levels, or rural background.¹²⁶

Worker rights organisations across the region emphasised legislative formality when noting key areas for advocacy. Some common advocacy priorities across countries include:

- Ratification of C189
- Revision or promulgation of domestic worker legislation
- Inclusion in and access to social protection schemes
- Access to private homes for labour inspectors

6.2. Impact of Covid-19

Migrants employed in the domestic work sector have been essential workers in the COVID-19 response, playing vital roles in the care of children, sick and dependent people, as well as the maintenance of homes, which helps to prevent the spread of the virus. Despite this role in supporting the functioning of households and the economy at large, they have been one of the groups most affected by the crisis. The pandemic has created a host of challenges for migrant domestic workers, from widespread dismissal and resulting destitution, to exacerbation of poor working conditions, to human rights violations and virtual imprisonment.

In a survey conducted by African affiliates of the International Domestic Workers Federation (IDWF), 3,419 domestic workers in 14 countries across the continent reported on their Covid-19 experiences. Nearly half of respondents experienced a reduction in income, suspension of work, or layoffs. Of those who were laid off, 85% did not receive a severance package. Only 17% of respondents received emergency income, food or other state-provided social support—and most of them received such support through another household member because they were not themselves eligible (Solidarity Center 2021).

126 There are numerous reports on working conditions of domestic workers in the region, as well as media reports and advocacy documents. Just a few examples of these include

- (Kiaga, Ackson, and ILO Country Office for United Republic of Tanzania 2016)
- (IDAY, CATSR, and WCP 2015)
- (Castel-Branco 2019)
- (Solidarity Center et al. 2021)
- (Moyo 2021)
- (Silvia 2022)

The Southern Africa Migration Management Project (SAMM) funded by the European Commission launched an income relief activity to benefit migrant domestic workers. This initiative targeting migrant workers was started in Botswana and South Africa during state of emergency and severe lockdown restrictions in the course of 2020. In their calls for help, trade unions and migrant civil society organizations pointed at the serious threat to the survival of groups of migrants, including migrant domestic workers.

Accordingly, and in collaboration with the Botswana Domestic and Allied Workers Union, around four hundred (400) food parcels were distributed to migrant domestic workers in various parts of Botswana. The distribution took place in urban and rural areas in July and August 2020. Foreign nationals working as child minders, cleaners, gardeners and cooks received the relief in the form of food parcels. Many of the beneficiaries were Zimbabwean migrant women working as domestic workers.

In South Africa, more than 900 vulnerable migrant domestic workers living in Gauteng successfully received cash transfer to cover expenses relating to basic needs. These transfers were made available through Izwi Domestic Workers Alliance Project and the Disabled Migrants Rights Networking Organization. Most recipients used the cash to purchase food for members of their households including school-aged children. Female migrant domestic workers assisted through the ILO income relief grant represent the large majority of the beneficiaries, who included nationals from Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe.

In 2020/21, assistance was provided to returning migrant domestic workers in Lesotho. Facemasks, sanitizers and food parcels are being distributed to around 180 migrant domestic workers in several districts of the country.

Covid-19 also resulted in temporary and permanent loss of employment for domestic workers across the SADC region. Some migrant workers in Botswana were forced to turn to sex work to survive.¹²⁷ Throughout the region, those who remained at work were often forced to take reduced salaries as employers cited inability to pay. Live-in workers consistently reported round-the-clock working hours, and no weekly rest periods as they were not able to leave the property.

During the pandemic, labour violations have spiked, with a sharp increase in flagrant violations of privacy, freedom of movement, freedom of association and right to family life. Workers' organisations reported an escalation in physical and sexual violence against women workers. Domestic workers in South Africa, Botswana and Namibia faced virtual imprisonment as their employers refused to let them leave the property, well after

¹²⁷ Interviews, Ronald Chikwenhere & Flora Kedibonye

governments had lifted restrictions. Live-in workers were unable to check on their children and were told to choose between their marriage and their job. They were also forbidden from seeking healthcare or collecting medication. Nearly two years later, some workers in South Africa are still facing severe restrictions on their freedom but are unable to leave the job as they have no alternative income (Solidarity Center et al. 2021).

Box 11: The Voices of Migrant Domestic Workers

*"My boss is still not allowing me to go out on my off days and I cannot even buy what I want because I am not allowed to go out. I am very worried about my life and my future. I have a partner and do not know how I will make my own family if I am not allowed to go out. I am really losing my mind."*¹²⁸

*"I was working while my employers were tested positive on Covid-19 and I was negative."*¹²⁹

The intimate, home-based nature of domestic work makes it high risk for Covid-19 transmission. In many countries in the region, domestic workers do not have access to compensation for sickness contracted at work, and even when they are eligible, they are not registered. Some countries such as Mauritius, Botswana and South Africa offer free health care, but this can be difficult or impossible for undocumented migrant workers to access. The Swaziland Domestic Workers Union reported domestic workers being forced to care for Covid-19 positive patients without any protective wear. According to the Zimbabwe Domestic Workers and Allied Workers Union (ZDAWU), workers were being dismissed if they showed any cold or flu symptoms.¹³⁰

Box 12: Did migrant domestic workers have access to state Covid-19 support?

Covid-19 caused widespread destitution for domestic workers who were put on unpaid leave, or dismissed. As most employers of domestic workers do not comply with social protection registration requirements, most domestic workers who were dismissed had no access to unemployment insurance, and in some cases were not able to access other forms of state support.

In Namibia, local domestic workers who lost their jobs were eligible for Covid-19 grants, but lack of access to mobile phone data and computers excluded them from the online application process. Migrant workers were not eligible for state assistance.¹³¹

¹²⁸ Migrant domestic worker research respondent, South Africa

¹²⁹ Migrant domestic worker research respondent, South Africa

¹³⁰ Interviews, Swaziland Domestic Workers Union, Zimbabwe Domestic and Allied Workers Union

¹³¹ Interview, Nellie Kahua, NDAWU

In Botswana, Covid-19 grants were not available. After pressure from civil society, the government began to provide free antiretroviral drugs (ARVs) and other medication for Zimbabwean migrants who do not have access to the Botswana health care system and could no longer return home to collect medication.¹³²

In South Africa, most domestic workers were excluded from the Covid-19 wage subsidies for workers on temporary leave, as they had never been registered for the Unemployment Insurance Fund (UIF). UIF-registered citizens and migrant workers were eligible, but the processing time for migrant workers sometimes took many months, and claims had to be submitted by employers who had little incentive. After intense advocacy efforts from workers' rights organisations, the Department of Employment and Labour agreed to include in the wage subsidies unregistered domestic workers who were citizens or documented. Unfortunately, long delays in operationalisation, and technical issues in the online application system resulted in almost no workers benefiting from this agreement (Tekie 2021).

6.3. Recruitment practices

The predominant route to job placement for domestic workers in the region is independent, through word of mouth, networks and social media.¹³³ One hundred percent of migrant workers in Botswana and Namibia surveyed for this research reported finding their jobs through these channels, although further questioning often revealed individuals who acted as unofficial agents in assisting them to migrate and connecting them with jobs, sometimes out of goodwill and sometimes expecting compensation.

According to key informants, placements also happen through agents that are formal and informal, fair and exploitative. In many countries, a small number of registered private employment agencies (PEAs) are active in providing formal training and job placement for domestic workers, although only a small minority of placements are made through this avenue. For example, such recruitment is increasingly popular amongst the Mozambican elite, for the higher capabilities of workers. Many countries in the region regulate fair recruitment standards, such as the prohibition of placement fees by workers. No evidence was found of domestic workers finding jobs through public (state) employment services.

An emerging and important trend in South Africa is the provision of domestic service through online platforms. Workers sign up and are selected for either once-off, short-term or long-term positions. Such platforms fill a market gap in digitally and efficiently linking workers to jobs, and as employers increasingly prefer part-time workers, with no strings attached. This mode of employment is appreciated by some workers for the flexibility, ability to decline work when they need time off, guaranteed minimum wage, and limited working

¹³² Interview, Botswana Domestic Workers Alliance, Migrant Workers Network

¹³³ According to KI interviews and survey results

hours. However, like other gig-economy workers, domestic workers on these platforms do not have access to contributory social protection or any form of paid leave. Furthermore, mistreated workers struggle to access justice. The owner of the house being cleaned claims not to be an employer as their contract is directly with the platform company. The platform companies also deny responsibility, claiming workers are independent contractors and not employees (Hunt and Machingura 2016).

Documented migrant workers can seek jobs through traditional and online agencies, but undocumented workers are excluded from these channels. They are then vulnerable to deception and exploitation by informal and “underground” recruiters. Our interviews with domestic workers and key informants, as well as supporting documentation, noted informal and exploitative recruitment of domestic workers along the following corridors:

- **Illegal recruitment within South Africa:** Domestic workers are frequently subject to recruitment scams by false agents, who take a fee for job placement and then disappear. They are also invited through WhatsApp or email to interviews at dangerous or non-existent addresses.

“Job searching agents promise us work, take our money, then block us without getting the job. Robbery is very high here.”¹³⁴

- **Women from Lesotho recruited to domestic work in South Africa:** ‘Agents’, including Basotho former domestic workers, recruit women from Lesotho to South Africa through WhatsApp and social media. They house them upon arrival, and then once placed, they claim a portion of their wages to cover “rent” and other costs. In some cases, workers on these channels end up forced into sex work or drug trade.¹³⁵
- **Workers from Angola and Zimbabwe exploited by family and fellow migrants in Namibia:** Migrants in Namibia recruit family members to work for them in the destination country, and subject them to exploitative conditions, similar to the predicament of rural-urban migrants in other countries in the region. They may also claim payment for placing them with another employer.

“Sometimes our own siblings bring us down; when we come over they don’t want to treat us as workers and start abusing us emotionally.”¹³⁶

“I came to my cousin. She said I can stay with her; after one month she expects me to work for her for free due to the fact that I stay at her place.”¹³⁷

- **Informal recruitment of domestic workers from Zimbabwe into Botswana:** Zimbabwean women are invited to come to Botswana and agents promise to arrange documentation and placement, in exchange for a fee. During the journey, workers’ passports are seized, they are forced to work in places and conditions without their

134 Migrant domestic worker research respondent, South Africa

135 Interview, Lerato Nkhetse; Also see (U.S. Department of State 2021a)

136 Migrant domestic worker research respondent, Namibia

137 Migrant domestic worker research respondent, Namibia

consent. Women may be subjected to rape, kidnapping, and even forced into sex work. Agents work in networks, especially in border regions. Without documentation it is difficult for women to return home, and they are fearful to report.¹³⁸

- **Recruitment of workers to the Middle East:** In Tanzania and Madagascar, formal agencies networked with agents in destination countries to find and place migrant workers, both legally and illegally. After migration restrictions were introduced in both countries, agents have continued to operate informally. In other countries in the SADC region, recruitment is still under the radar, happening through social media and individual networks.
- **Trafficking within, to, and from Tanzania:** Agents take children from the border areas of Burundi into domestic servitude in Tanzanian cities, promising parents they will receive a good urban life, but placing them in abusive workplaces. This form of human trafficking is extremely difficult to detect since the work is performed in private residences. Similar trafficking happens within Tanzania along rural-urban corridors. Local agencies, many of which are not registered, claim up to 40% of the worker's salary every month on an ongoing basis. Tanzanians are also recruited to work in Kenya, which has more advanced labour protections, for employers who want to hire migrants at sub-minimum wages.¹³⁹

6.4. Migration to the Middle East

Between 1990 and 2017 there was a significant and consistent rise in the number of African migrant workers in the Gulf Cooperation Council states.¹⁴⁰ According to a 2017 study by the International Trade Union Confederation (ITUC), 12% of the 28.1 million migrant workers in this region were African, with the vast majority working in Saudi Arabia, Kuwait and the United Arab Emirates (UAE) (ITUC, GAATW, and Laiboni 2017). Lebanon also has a significant number of African workers.

Although most African migrants to the Middle East are from East and West Africa, especially Ethiopia, Southern Africans are also performing domestic work in the region. There are established corridors of workers from Madagascar and Tanzania heading to countries such as Lebanon, Kuwait, Saudi Arabia, Oman, and UAE.

While some women may benefit from this economic opportunity, reports of abuse and exploitation of these workers are severe. Domestic work in these countries is managed under the *Khafala* system, which gives the employer an inordinate amount of control over workers, restricting their ability to quit the job or leave the country. Workers are prevented from contacting their families or moving freely, working hours are long, and salaries are withheld without process or reason. Madagascar's Union of Qualified Domestic

138 Interview, Wellington, DWAZ

139 Interview, Angela Benedicto, WoteSawa

140 These include Saudi Arabia, Kuwait, the United Arab Emirates (UAE), Qatar, Bahrain and Oman.

Workers (SPDTS) has dozens of boxes of files of emigrant Malagasy workers chronicling an astonishing range of abuse, from physical to psychological to sexual (Ross and Solo 2014).

A 2019 study of domestic workers from Tanzania working in Oman and the UAE also reflects stories of exploitation. Contracts issued by the brokers left workers exposed to exploitation and abuse, such as withdrawal or underpayment of wages, long working hours and severe exhaustion, health problems, undernourishment, lack of privacy, and cultural and religious impositions by the employers.¹⁴¹

In response to such abuse, both Madagascar and Tanzania put in place measures to prohibit labour migration to these countries. In 2015, Tanzania banned PEAs recruiting workers to the Middle East, and implemented media campaigns and other measures to restrict labour migration to the region (BBC News 2015). Since 2009, Madagascar has prohibited workers from migrating to “risky” countries.¹⁴² Regardless, every year since 2009, about 200 people per week left Madagascar for the Middle East, according to a 2014 estimate by the SPDTS. These are predominantly women. In September 2021, the Madagascar government lifted the ban to allow Malagasy women to migrate to Lebanon. The timing is unexpected; Lebanon is in the midst of an economic crisis, and many of the migrant domestic workers in the country are going without pay, taking refuge at embassies and UN offices as they desperately try to return home.¹⁴³

While such bans may reduce official migration, they also drive migrants to travel on informal, undocumented, and often dangerous routes. As a result, emigrant workers are not counted, or registered with embassies or formal agencies, which could potentially assist when they are mistreated or stranded in the destination country. Without statistics, it is difficult for countries of origin and civil society organisations to know the scope of the problem and provide support.¹⁴⁴

In 2016, 200 Zimbabwean women were lured to Kuwait by promises of domestic work, then sold into forced labour and prostitution, only able to return home after the Zimbabwean government negotiated their repatriation (Razemba 2016).¹⁴⁵ In 2019, Kuwait instituted a ban on domestic workers from 27 countries including the Democratic Republic of the Congo, Madagascar,¹⁴⁶ Malawi, Tanzania, Zimbabwe (Mansoor 2019).

Interviews and news reports in Malawi, Mozambique, Zambia, and Zimbabwe (Português-People’s Daily Online 2017) have all noted instances of women from those countries migrating to work in the Middle East. To date, these routes are mostly undocumented. In

141 Women’s Labour Migration on the Africa-Middle East Corridor: Experiences of migrant domestic workers from Tanzania Mainland and Zanzibar.

142 Interview, Noemie Razafimandimby, ILO

143 Interview, Zeina Mehzer, ILO

144 Interview, Noemie Razafimandimby, ILO

145 And Interview ZDAWU.

146 Male Malagasy workers are still permitted to work in Kuwait.

such early stages, it is time for institutions in these countries to educate potential migrant domestic workers about the context of destination countries and reports of abuse, as well to provide information on reporting channels and support organisations should they be mistreated.

Asian countries such as the Philippines have put in place bilateral agreements to enforce higher wages and other minimum working conditions in destination countries. According to Zeina Mehzer of the ILO office in Lebanon, who was interviewed for this research, countries of origin must begin standing up and negotiating with destination countries to secure minimum wages and other rights for their workers.¹⁴⁷

6.5. Organising and mobilising domestic workers

Given the widespread lack of labour law enforcement in the sector across the region, unions and support networks are critically important in educating workers on their rights, assisting them to access justice, and advocating for needed policy change. There is a small but important array of labour rights organisations, covering domestic workers in at least 14 of the 16 countries in the region. Alongside unions and membership associations, non-profit organisations, advice offices, and legal rights firms service domestic workers through education, representation, and advocacy.

There are at least three types of membership-based organisations for domestic workers in the SADC region:¹⁴⁸

Unions: Nine of the sixteen countries in the SADC region have unions dedicated to domestic workers, including Angola, Botswana, Eswatini, Namibia, Madagascar, Mozambique, South Africa, Zambia, and Zimbabwe.¹⁴⁹ In Malawi, Mauritius, the Seychelles and Tanzania, general unions or federations actively include domestic workers in their constituency. Despite the well-documented challenges of organising domestic workers in any country, these unions are making headway in advocating for fair legal frameworks and meaningful enforcement. Many of these are linked through International Domestic Workers Federation (IDWF) membership.¹⁵⁰

147 Interview, Zeina Mehzer, ILO

148 (ILO and Tayah 2016) suggests a slightly different typology of domestic worker organisations as follows: unions, associations (various forms of non-profit and civil society organisations) and hybrid organisations, which refers to collaborative efforts between unions and associations.

149 Some countries, such as Angola, Mozambique and South Africa, have multiple domestic worker unions, and South Africa has a union specifically for migrant workers.

150 According to research findings, only DRC and Comoros do not have any union representation for domestic workers.

The Zimbabwe Domestic and Allied Workers Union (ZDAWU), in partnership with the ILO, the Zimbabwe Congress of Trade Unions, and the government of Zimbabwe, published a guide for migrant workers in South Africa. The guide provides information on what workers should know before taking the decision to leave, when travelling, and while living in South Africa. It includes a summary of basic human and labour rights in South Africa, information on sending money home, and how to return safely to Zimbabwe (MPSLSW et al. 2016).

The Federation of Free Trade Unions of Zambia (which includes the Domestic Workers Union of Zambia) and the Zambia Federation of Employers (ZFE) have partnered with government ministries to create a Code of Conduct for Employers of Domestic Workers (Zambia Federation of Employers 2011). This is designed to provide guidelines relating to employment conditions for domestic workers and the working relationship between employers and employees.

Confédération des Travailleurs des Secteurs Publique et Privé (CTSP) in Mauritius has a migrant resource centre where workers can get information, watch videos on policy, and come to monthly educational workshops. It is also developing a smartphone app for workers to access legal rights information.

Associations: Some countries, such as Botswana, Lesotho, South Africa, Tanzania and Zimbabwe have domestic worker organisations which are registered as non-profits rather than unions. These are usually membership-based and provide labour rights support, advocacy and representation. They may also have additional programming in areas such as basic rights, economic empowerment, and personal growth.

Reasons given for registering as a non-profit include:

1. Non profit registration may allow for wider scope of activities and more flexible organisational structure,
2. Unions in some countries have a reputation for being political and/or corrupt, and workers (especially migrants) want to avoid risk of involvement, and
3. Many domestic workers feel they are at risk of dismissal if their employer learns they are a member of union, whereas a non-profit organisation will be less of a threat to the employer.

The Domestic Workers Association of Zimbabwe (DWAZ) provides advice, support and training for their members across borders, including both domestic workers in Zimbabwe and Zimbabwean workers in South Africa and Botswana.

Movement for Advocacy Group in South Africa (MAGSA), originally an organisation for undocumented Malawian migrant workers (including many domestic workers), provides its members with identity cards that prove useful to members when questioned by the police, and include attached information on their rights and MAGSA contact information should they be in trouble. MAGSA also supports its members with CCMA representation for labour issues, and assistance in accessing public health care and schools.

In Tanzania, WoteSawa advocates for legal and economic empowerment of child domestic workers, monitors child abuse, and provides psychosocial support. They are also lobbying for labour policy amendments to conform with international standards.

Migrant networks: In South Africa and Botswana, grassroots networks of migrant workers develop around a shared country of origin and are organised through WhatsApp groups or social media. Often more informal than unions or NGOs, these networks are fluid, do not have formal membership processes, and can reach large numbers of workers. They provide a wide range of support including rights awareness, advice on accessing social services, moral support, solidarity and in some cases even legal advocacy.

Makhox Women's League is a network of nearly 150,000 Zimbabwean women in South Africa (with additional members in Zimbabwe, the UK, North America and the Middle East). The majority of these women are domestic workers. Primarily based on Facebook (but including quarterly meetups) Makhox provides guidance and advice to women on rights and challenges at home and in the workplace.

The Migrant Workers Network of Lesotho is a WhatsApp-based network of Basotho migrants in South Africa. In addition to rights education, they also identify traffickers, using their networks to warn women and eliminate illegal recruiters. They have also played an active role in advocating for access to documentation for migrant workers.

Union representatives in Namibia and South Africa expressed challenges specific to organising migrant domestic workers, as they are often undocumented and prefer not to draw attention to themselves by joining a union. In Botswana, it was noted that migrant domestic workers are frequently changing jobs and cities as they look for better opportunities, and

frequently change phone numbers. Therefore members can be very difficult to track over time. For this reason, more fluid membership and non-contributory members organisations may better suit some migrant workers.

Advice offices, which provide free or low-cost legal support in rural areas of South Africa, are also important role-players in educating domestic workers about their rights, especially as these areas are often beyond the reach of unions. Human rights law firms partner with unions and membership organisations, and provide critical pro-bono legal support, policy input and strategic litigation. NGOs focused on women's rights and migrant rights include domestic workers in their programming and may do advocacy work. Universities conduct research that can influence policy.

The work of these committed and dynamic organisations is, however, a drop in the bucket given the large numbers of domestic workers in the region. The vast majority of domestic workers remain entirely unorganised and unsupported. The difficulties of organising domestic workers due to vulnerability and isolation are well-documented. For example, domestic workers in South Africa significantly outnumber both mineworkers and farmworkers (Stats SA 2021), yet they are much less visible in the labour movement and in civil society efforts. The vulnerability and isolation of both local and migrant domestic workers, and severely limited resources of members' organisations, contribute to lack of awareness about support mechanisms, and workers fear that reaching out could lead to dismissal or deportation.

6.6. KEY ISSUE: Child Labour in the domestic work sector

The Worst Forms of Child Labour Convention, 1999 (No. 182) designates the "worst forms of child labour" to include forced labour, trafficking, and exploitative, illicit or hazardous work.

C182 has been ratified by every country in the region. Yet in many countries, domestic work is still performed by children below the relevant minimum age, in a hazardous environment, doing dangerous tasks and working extended hours with unreasonable confinement to the employer's premises (ILO 2022a). In many cases, these children have been sent across borders to find work in neighbouring countries. Without documentation or support, they are highly vulnerable to trafficking and exploitation.

Girls are disproportionately subject to child labour, as they are less likely to have access to educational and skills development opportunities. As discussed in the ILO's "Shaping an African Decent Work Agenda, 2020–30", families living below the poverty line, especially in rural areas, cannot afford to educate all of their children, and often boys are sent to school with girls left behind to work in the home, or to take low paid work in others' homes (ILO 2019d, 15).

44% of domestic workers in the Democratic Republic of the Congo are under 18 years old, including children younger than 14, according to a 2015 study (IDAY, CATSR, and WCP 2015). Domestic work in the Democratic Republic of the Congo is characterised by long

hours, low wages, and lack of paid leave or other benefits. Only about half of child domestic workers receive some education while working (IDAY, CATSR, and WCP 2015).

The Democratic Republic of the Congo Child Protection Code allows children to work from the age of 16, under certain specific conditions. Work classified as the worst forms of child labour is prohibited, but contrary to international categorisation, domestic work is not included on the list in the Democratic Republic of the Congo and is therefore permissible (IDAY, CATSR, and WCP 2015).

Girls in Madagascar who cannot go to school become domestic workers, even if they are not old enough to work. In some cases, this leads to work as prostitutes in urban areas. Madagascar has been firmly committed to eliminating child labour since 1997. The 2004 national action plan has led to a significant drop in the rate of child labour. But economic and socio-political tensions have caused the situation to deteriorate (OIT and IPEC 2012).

In the Comoros, children work under forced labour conditions, primarily in domestic service which includes dangerous tasks (U.S. Department of Labour 2018a). Respondents in Mozambique, Tanzania and Zambia reported a prevalence of unpaid domestic work in urban areas by children from the countryside, in exchange for housing and board with their relatives (who are informal employers). These domestic workers are often very young and mostly female and so they have very little agency to organise or claim their rights.

Poverty is the primary driver of child labour in the domestic work sector. Orphaned children seek work as a means of survival or are pushed to earn an income by close relations who find them a burden. In other cases, parents who are unable to care for their children send them to work for additional revenue, or to receive food, shelter and schooling from wealthier families in exchange for housework (IDAY, CATSR, and WCP 2015). In practice, some of these children do receive care and an education, while many are victims of labour exploitation and abuse (U.S. Department of Labour 2018a). They are often not paid since their families consider it an aspiration for them to move from the village to the city, and potentially to get an education. Formal surveys like labour force surveys and censuses are unlikely to capture such workers because they are not considered workers by their employers, or by the workers themselves. Especially if they are young, employers report them as family members to prevent child labour accusations.

Most of the countries in the region have a minimum working age of 15-18 years. However, the minimum age in Malawi and Tanzania is 14 years, and in Mozambique, children as young as 12 can be legally employed as domestic workers if they have parental approval. As of 2018, a revision of the country's labour law was under consideration, which would eliminate the exception for children as young as 12 to work, and which would raise the minimum working age to 15 (U.S. Department of Labour 2018b).

6.7. CASE STUDY: Mauritius: Will opening the borders to migrant domestic workers lead to exploitation?

Migrant workers in Mauritius have been critical to the island state's economy since the early 1900's under colonial rule (EISA 2009). Immigration laws regulate which industries can hire migrant workers, and employers, often large companies, are responsible for workers' transit, documentation, accommodation and board.

Trade unionists have reported widespread abuse of migrant workers, including forced labour, passport confiscation, substandard living conditions, denial of meal allowances and deportation (U.S. Department of State 2021b). Women workers who become pregnant are by default dismissed and sent back to their home country. Despite a strong regulatory environment which protects the workplace rights of formal and informal workers, lodging a complaint against an employer can lead to the torture, dismissal and deportation of workers. Companies have even threatened the safety of the union members representing those workers (Ragoo 2021).

Currently, domestic work is almost exclusively performed by local workers, often from poor and rural areas. Immigration laws do not permit expatriate workers in this sector.¹⁵¹ As the first country in Africa to ratify ILO C189, Mauritius has a full range of labour protections for domestic workers, which have been hard won through the efforts of organised workers over decades.

In June 2021, the Minister of Finance announced that the work permit system will be broadened to allow a lower salary threshold, and to allow foreign carers and maids to work in Mauritius. The Confédération des Travailleurs des Secteurs Publique et Privé (CTSP) has officially lodged an objection to the opening of the economy to migrant domestic work. If widespread abuse of migrant workers in factories goes unchecked, they are concerned it will be impossible to prevent exploitation of migrant domestic workers behind the closed doors of private homes.

¹⁵¹ Marginal domestic work is done by migrants from other sectors. Some expatriate workers also bring a domestic worker from their home country to work for them in Mauritius.



7. Discussion / Analysis

The findings in this report about data and policy provide a supportive framework for increasing public and policy-maker recognition of the enormous value that (migrant) domestic workers bring to society and the economy. The ILO Policy Brief, *Measuring the economic and social value of domestic work*, notes that domestic work is “undervalued, underpaid, unprotected and poorly regulated”, and this is in part because women’s work in the home throughout history has been undervalued and unpaid, not considered ‘real work’ (ILO 2011a). Care work and household chores, which fall predominately on the shoulders of women and girls, bring astronomical opportunity costs for human beings, the economy and society at large. Although generally considered as low-skilled and classified as an ‘elementary occupation’, domestic work is a profession that involves and requires a broad set of skills and capabilities with big responsibilities. In addition to the rights which domestic workers have as people and as workers, their efforts directly impact on the wellbeing and social and economic opportunities of the families and households they work for. This especially includes freeing women – who still carry out the bulk of unpaid care and household work – to enter the labour force by taking on such work.

It is in this context that the care economy, which includes care for children, the elderly and people with disabilities and illnesses, has been identified by the ILO’s

constituents across Africa as an important sector for the continent's ongoing development, as stated in the 2019 ILO Abidjan Declaration, *"Advancing Social Justice: Shaping the future of work in Africa"*: "Recognizing that addressing the development challenges requires structural transformation through value-addition across the broad sectors of agriculture, manufacturing and services, domestic resource mobilization, investment in the care economy and improving productivity" (ILO 2019d).

Further, the Declaration highlights that "Promoting fair and effective labour migration governance" is a necessary component of the priority area of "strengthening the efficiency of the institutions of work to ensure adequate protection of all workers" (ILO 2019d).

"...[T]he migration of low-skilled female domestic workers within the continent reflects the extensive poverty and lack of opportunities there. (...) While migrant workers contribute to growth and development in their countries of destination and origin, the migration process implies complex challenges in terms of governance, migrant workers' protection, migration and development linkages, and international cooperation. In addition, the last five years have seen an increase in the numbers of refugees and forcibly displaced persons involving millions of people from crisis-affected countries" (ILO 2019d)

Against this backdrop, and based on the findings of this report, this analytical section discusses the characteristics of migrant domestic work in the region, avenues and complexities of formalisation of migrant domestic work, and finally improving the evidence-base for decision-making on migrant domestic workers in the region.

7.1. Characteristics of migrant domestic work in the region

Emerging from this research are several regional characteristics which make the SADC region distinct from conditions in the other migrant domestic workers-destination regions:

- **Intra-regional circulation:** Migration into domestic work is predominantly within the region and to neighbouring countries, rather than inter-continental or cross-regional. This means that migrant domestic workers are often similar to locals and employers (rather than distinct, as in high-income countries) in terms of race, culture, religion and language. This cultural affinity, geographical proximity and porous border regimes enable both local integration and circular migration, and in some cases reduces the levels of individual isolation and dependency which migrant workers experience in many other destination regions. The exceptions are Mauritius and the Seychelles, also the two 'high-income' countries in the region, where 75% and 71% respectively of international migrant stocks are from Asia. However, the majority of migrants do not enter into domestic work in these destination countries, with some exceptions in the Seychelles.

- **Uneven distribution of migrant domestic work in the region:** Most countries in the region neither host large numbers of migrants nor have large numbers of (paid) domestic workers. Domestic work as a share of employment among total employees, and among female employees, is low. This is because their economies are too small to attract migrants or afford paid domestic workers. As a result, these countries do not have significant numbers of migrant domestic workers. The exceptions are South Africa, Botswana, and Namibia. An interesting case is Tanzania, where there are large numbers of paid and unpaid domestic workers compared to the size of the economy and population, but only a very small proportion of these are migrants. Given these high level trends, the estimation of (migrant) domestic worker numbers is challenging, as discussed in detail in this report, and so official numbers may be significant under-counts.
- **Inclusion of domestic work in labour regulations:** All countries in the region include domestic work in the general labour laws and right to unionise, and nine countries have sector-specific labour regulation. However, in many countries, labour regulations for domestic work remain problematic due to gaps in regulation or specific legal exclusions. Despite legal recognition of the sector throughout the region, high levels of informality, compounded social norms, insufficient state commitment, low status of workers, and lack of labour law knowledge lead to weak, sometimes non-existent enforcement in all countries. Most countries have unions or other forms of rights support for domestic workers, but these incorporate a very small percentage of workers, due to the isolation and vulnerability of workers, and under-resourced organisations.
- **High levels of irregular migration of domestic workers:** Irregular migration into domestic work is common globally, but there are specific patterns to this in the SADC region. As the primary destination countries also have high unemployment and a significant population of low-skilled workers, most do not issue work permits to domestic workers, with the exception of the Seychelles, and very recently, Mauritius. In South Africa, many migrant workers are eligible for asylum, which grants permission to work, and some have been regularised through the Lesotho and Zimbabwe special permit processes. In Botswana and Namibia, it is very difficult, although not impossible, for a migrant domestic worker to obtain a work permit. In other parts of the region, migrant domestic workers are living with family, or moving unrecognised with migrant employers, and their migration is never formalised. Most migrant domestic workers are therefore undocumented, posing additional labour rights and enforcement challenges.
- **Informal economies:** In many low-income countries the general labour rights regimes are either weakly defined or weakly enforced. High levels of informal work overall mean that advocating for labour rights for domestic workers and for migrant domestic workers is part of a wider context of informality rather than exceptionally unregulated sectors.

7.2. Avenues and complexities of formalisation of migrant domestic work

“Many countries around the world are at the onset of a care crisis: with the ageing of the population, and continually increasing rates of female labour participation, families are increasingly turning to domestic workers to care for their homes, children, and ageing parents. While an increasing share of domestic work is part of the formal economy, domestic work remains one of the sectors with the highest share of informal employment. [...]

The high rates of informality in general, and in the domestic work sector in particular, have increasingly driven governments to take action to promote transitions from the informal to the formal economy” (ILO 2016a).

The findings present a picture of migrant domestic workers in this region that are visible in the law, to varying degrees. However, due to the nature of the work (informal work behind closed doors, in private employers’ homes), ultra-low wages, lack of social status, very low levels of compliance, lack of statistical data, and lack of regularisation, most migrant domestic workers remain invisible to the economy and the political arena. This group of workers are thus unable to access their right to decent working conditions.

Most migrant domestic workers in the region are undocumented migrants, and thereby lose some or all of their visibility to the law. Either remaining below the radar of institutions, or assimilating undetected into the local population, and crossing borders uncounted, these workers virtually disappear.

As the quote suggests, there are a number of global drivers towards increasing formalisation of the domestic work sector. Not all of these apply equally to the SADC region, where most countries still have a young population rather than an elderly care crisis, but increasing female labour force participation, greater urbanisation and class differentiation, and increasing inequality are regionally relevant drivers of the market for domestic work and the push to formalise it.

Formalisation is, however, not always a straightforward response to informality in the SADC context. Informality means invisibility to the state, but informal practices are often quite regular, consistent and predictable within the local context. They also meet the interests of at least some of the stakeholders in the system, whether it be employers or extended families or aspects of the state machinery. Recommendations to introduce more formality to either migration systems or employment systems – or both – must take these informal systems and interests into account if real implementation and wide-spread benefits are to be achieved.

7.2.1. Defining formality

Given the quest for human-centred, rights-based and gender-responsive migration management and policies, the resounding response to the invisibility and vulnerability of domestic workers globally has been calls for formalisation and mobilisation. An ILO 2016 report on formalising domestic work notes the following indicators on a continuum of informality to formality. A framework for dimensions and indicators of formalisation is laid out in Table 14 (ILO 2016a, 13).

Table 14: Dimensions and Indicators of Informality - formality of employment in domestic work (Source: ILO 2016, Formalising Domestic Work)

Dimensions	Indicators	Informality	Formality
Labour rights legal framework	i) Legal recognition of employee status with associated entitlements as an employee	Not recognized by law; or partly recognized	Recognized and governed by law
Social security rights legal framework	i) Legal recognition of social security coverage of domestic workers Note: Exclusions may still occur due to differences in entry and eligibility requirements (for example in case of exclusion of some categories of part-time workers, those with multiple employers, or those who work less than a certain number of hours per employer.)	Not recognized by law	Recognized and covered by law
Declaration & registration with public authorities (social security and administrative units depending on national regulatory system)	i) Social security registration	Not registered	Registered
	ii) Payment of contributions to the social security system	Not paying	Paid
	ii) Registration with administrative unit (depends on national regulations)	Not registered; undeclared work	Declared work
Formal employment practices	i) Employment contract with terms of employment (tasks, wage, hours)	No agreement	Oral or written contract
	ii) Recorded of payment; payslip	No payslip	Payslip

Domestic workers in the region, by and large, meet to some extent the indicators of formality in the first two dimensions: legal frameworks and social protection. When it comes to registration with public authorities and formal employment practises, they move to the informal end of the continuum.

The experience of South Africa, the region's largest employer of migrant domestic workers, provides some meaningful (though limited) avenues by which migrant domestic workers may be documented, potentially allowing them to retain formality in the first two dimensions. The country also grants undocumented migrants coverage under the labour law, but excludes them from most social protection schemes, leaving them with only one dimension of formality. Excepting the very few documented migrant domestic workers in Botswana, the rest of the migrant domestic workers in key destination countries are necessarily undocumented and fall entirely to the informal side of the continuum in all dimensions.

7.2.2. Questions on regularisation of migrant workers

The ILO Recommendation No. 204 concerning the Transition from the Informal to the Formal Economy calls on Member States to pay special attention to domestic workers, who are particularly vulnerable to the most serious decent work deficits in the informal economy. If formality is the most important step to eliminating exploitation of domestic workers, what steps would be required to formalise the workplace relationship and conditions for migrant domestic workers? The ILO framework suggests three approaches to formalisation: Extending the scope of the law, dissuading informality, and enabling compliance.

Extending the scope of the law includes 1) ensuring coverage of labour rights and social protection; 2) providing special regulations for occasional and casual jobs; and 3) regularising the status of migrants. Although the first point is highly relevant due to substandard regulations and gaps in coverage, it is not the primary barrier to formalisation; legal frameworks exist in all countries in the region, and social protection is extended to domestic workers in about three quarters of SADC countries. Special regulations for occasional work may be pertinent in some country contexts but will not resolve the issue of formality as large numbers of domestic workers in the region are full-time workers. Regularisation of migrant workers is the most relevant and perhaps most difficult question. Potential opportunities may be:

- **Regularisation of undocumented migrants.** While this would obviously resolve the biggest barrier to formalisation for migrant workers, it is a question of political will and carries a number of economic, social and border implications that are not easily resolved, especially as primary destination countries have large low-income populations and/or suffer from high unemployment rates. Pertinent questions include:
 - Are there forms of regularisation that could allow workplace formalisation for migrant workers (including social protection) with restrictions that would address other economic and social concerns such as local unemployment?

- Are there lessons from South Africa's experience with regularisation through special dispensations for Zimbabwe and Lesotho that can inform potential policy in other destination countries, including Botswana and Namibia?
 - Should labour and social protection coverage for documented migrants differ from coverage for citizen domestic workers?
 - What challenges currently exist in ensuring labour and social protection coverage for documented migrant workers, and how should those be addressed?
- **Inclusion of undocumented migrant workers in the labour rights frameworks without regularisation.** From the experience of South Africa, this is feasible (although not without challenges) if labour law enforcement is separated from immigration law enforcement, and workers can report mistreatment without fear of deportation. It may be publicly unpopular in that the cost of this inclusion falls primarily on employers who would be forced to comply with the law.¹⁵²
 - **Inclusion of undocumented migrant workers in social protection without regularisation.** As the relevant labour laws strictly prohibit the employment of non-citizens without permission to work in the country, it would be difficult for the state to include them in social security and contributory schemes without nullifying that prohibition. Destination countries aim to deport undocumented migrants, rather than offer them social and economic security. Indeed, the South African Immigration Act speaks in harsh terms about the illegality of even providing basic assistance to an 'illegal foreigner'. With this in mind,
 - Are there any models or precedents in which undocumented migrants could be included in social protection schemes without regularisation?
 - How can bilateral, multilateral and regional agreements, including consideration of portability of social protection across borders, provide avenues to legal visibility and protection for undocumented workers?

7.2.3. The Greater challenge: compliance and enforcement

The third and fourth dimensions of formality in Table 14, government registration and formal employment practises, are already mandated by labour laws in many countries in the region but are still not enjoyed by workers. In many cases these are perhaps more complicated and elusive than strong legal protections.

The barriers to accessing existing labour rights for domestic workers are many but generally fall into two categories: employers' non-compliance, and state non-enforcement.

The challenge of employer compliance to the labour law is at the heart of exploitation of both local and migrant domestic workers in the region. It extends beyond the knowledge of regulatory requirements and willingness or refusal to exploit.

¹⁵² For example, amendments to the Mozambican labour law have been resisted by employers who do not want to have to meet regulatory standards. (Interview, R. Castel-Branco). There may be other considerations and costs to the State as well.

“It is crucial here to recognize that while labour standards are universal in their application, implementation is fragmented at the national level as a result of the mosaic of social, cultural and economic attributes that make up each ‘employer’ and ‘worker’ cohort. [...]

Employers’ and workers’ behaviours are nested within broader social and gender structures, the legacy of social, racial, class and caste hierarchies that characterise the localities and generations from which they emerge. Socialisation processes often survive legal reforms.” (ILO and Tayah 2016, 59, 69)

When the power disparities and dynamics of race, class, gender and nationality play out in the intimate and contentious space of the home, the drivers of labour practises and decisions are not always logical, objective, or motivated by cost, outcomes or other obvious targets. ILO research on awareness-raising amongst domestic workers and their employers found that drivers of employers’ labour law compliance were influenced by their nationality, and income and education levels, as well as understanding of gender roles, among other factors (ILO and Tayah 2016). These factors must inform the state, labour movement and civil society approaches to awareness building, advocacy and labour law enforcement.

Reasons for non-enforcement of labour law by the state are widely documented, including in Section 6.1.3 above. The ILO report on formalisation provides a thought-provoking framework on enabling formality and deterring informality that would be useful in considering appropriate and contextual policy and enforcement mechanisms (ILO 2016a, 35–68).

7.2.4. Unexpected consequences to formalisation?

Finally, it is worth considering potential unintended consequences that may come with high levels of labour law regulation compliance. For example,

- While documented migrants and local domestic workers would likely see an improvement in employment terms and conditions, undocumented migrant workers would find it increasingly difficult to secure work and would be limited to taking under-the-table exploitative positions.
- In some countries, domestic workers find that the favours and gifts they receive through the patron-client relationship of informal work agreements is more beneficial than the minimum standards of formal work agreements (Ally 2010). This is similar to the experiences of other traditionally informal labour sectors such as farm workers in South Africa, where formalisation of minimum labour and housing requirements led to a major increase in evictions and a reduction in ‘paternalistic’ but nonetheless beneficial informal employer practices like covering basic health costs or providing basic foodstuffs (Wegerif, Russell, and Grundling 2005). However, in the long-term such patron-client practices may result in disempowerment and dependence, limiting workers’ agency and ability to advance to better opportunities.
- While regulation of recruitment PEAs is critical in protecting workers, especially migrants, it has in some instances substantially increased the costs to PEAs, which

have then been passed on (even if illegally) to workers, further increased their financial burden.

- In South Africa, Botswana and Namibia, rights organisations argue that formalising migration status for migrant workers would improve their access to protections. On the other hand, the union protecting domestic workers in Mauritius argues that it is better for the country not to permit any migrant domestic work, because workers will be too vulnerable to exploitation and too difficult to protect.
- Formalisation policies and processes therefore need to be carefully considered in each local context, informed by evidence, and designed through an inclusive dialogue with vulnerable workers, and especially migrant workers, to co-create solutions.

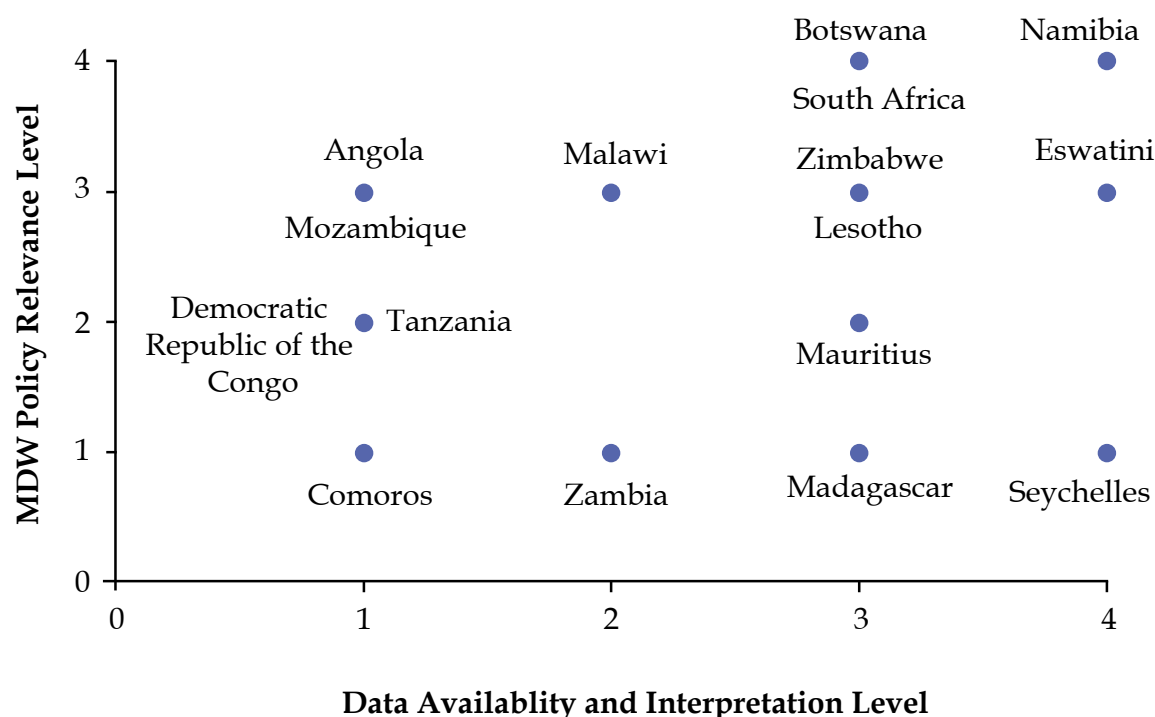
7.3. Improving the evidence-base for decision-making on migrant domestic workers in the region

Measuring the impacts of increased formalisation efforts on the numbers and working conditions of migrant domestic workers depends to some extent on the availability of appropriate data. The same data is also necessary to support arguments for the importance of policy change in the first place. There are two kinds of considerations relating to what kinds of data are most useful for evidence-based advocacy towards human-centred, rights-based and gender-responsive migration management and labour protection policies. The first relates to what data is collected and the second to how it is interpreted and presented.

Data collection on migration and domestic work is technically complex and, especially if targeting the accurate capture of small populations, expensive. Government investments in data generation therefore depend on whether the information fulfils some perceived strategic value domestically or enables them to fulfil some regional or international requirement with consequences for noncompliance. From a pragmatic and evidence-based decision-making perspective, our focus in terms of assessing the reliability of migrant domestic worker population estimation is on those countries with sufficiently large numbers or proportions of migrant domestic workers to find the sector of policy relevance. For countries where the number or proportion of migrant domestic workers is known to be very small, the effort and cost required to generate accurate statistical estimates of migrant domestic workers is incommensurate with the value of the information generated, especially given the challenge of identifying this population and including small numbers in sample surveys.

Figure 10 shows the distribution of countries in the region in terms of their level of migrant domestic worker policy relevance (1 = very low relevance due to very low numbers, 2 = low relevance with low numbers but some emerging issues, 3 = medium relevance due to large migrant domestic worker populations, 4 = high relevance due to large absolute or proportionate hosting) and their level of current data availability and quality (1 = no accessible data in last five years, 2 = no accessible data on labour or migration in last 5 years, 3 = recent data which either includes both labour and migration data or can be interpreted together but no ongoing labour and migration data collection, or recent data collection combining labour and migration indicators but insufficient analysis and reporting, 4 = annual or more regular data collection which includes both labour and migration indicators and reports on both adequately).

Figure 10: Data Interpretation and Improvement Priority



Countries in the bottom half of the graph have little need or incentive to improve their data collection systems, noting that those in the right bottom corner already have a sufficient evidence-base for the level of decision-making they need relating to migrant domestic workers. In the case of the Seychelles, Mauritius and Madagascar, policy-making concerns on this topic revolve less around the number of hosted migrant domestic workers, which is likely to remain small in absolute numbers, and more with forms of labour protection relating to emerging sending and receiving patterns. In the case of Zambia, migration data improvement is already on the agenda and there are plans to include a migration module in the quarterly labour force survey (IOM 2019).

Those countries in the upper left corner of the graph (Mozambique, Angola and Malawi) require significant capacity improvement and resources to be able to increase the availability and quality of their data sources on both labour and migration. This would be a useful investment overall but is unlikely to be motivated by a concern for migrant domestic workers, since the numbers in these countries remain relatively small and many other policy concerns are more pressing. Angola's 2022 census may fill the current gap.

The countries in the upper right corner of the graph are therefore of greatest interest and concern for improving data systems to track and understand migrant domestic workers. We therefore provide brief case studies of the current data environment for each, with recommendations per country.

Botswana: Botswana's 2020 Quarterly Multi-Thematic Survey Q4 reports domestic work (households as employers) by citizenship status but only for formally employed persons (Statistics Botswana 2020, 39), defined as employment under a "working agreement that includes, salary or wages, health benefits, defined work hours and workdays" (Statistics Botswana 2020, 36). While a total of 27,518 domestic workers (irrespective of nationality) were recorded as currently employed (5,170 male and 22,347 female) (Statistics Botswana 2020, 23), only 1,974 of these are recorded as formally employed, and only the formally employed numbers are disaggregated by citizenship status. No further information is provided about those who are considered informally employed, including the vast majority of domestic workers. We therefore recommend that in future QMTS reports, Botswana report on overall employment by industry and citizenship status, rather than limiting citizenship status reporting to only part of the labour force.

South Africa: A migration module is not a permanent feature in the South African Quarterly Labour Force Survey. Stats SA included questions on migration in the QLFS for the first time in the third quarter of 2012 and repeated the module in the third quarter of 2017. This remains the most recent migration data available in the country, until the census is completed in 2022. The 2017 QLFS only records whether the respondent was born outside the country or whether they lived outside the country five years ago. It does not record the respondent's country of birth or recent residence. The results of the 2012 and 2017 migration modules were reported in a special report on labour and migration dynamics (Statistics South Africa 2019), which provides useful analysis but does not follow the format of standard labour force reports in providing detailed reporting by industry and sex as well as other factors like urban/rural. We recommend that South Africa include a migration module in one QLFS per annum and report on migration status as one of the standard variables according to which overall employment by industry is disaggregated.

Namibia: The most recent LFS was conducted in 2018 and included data on employment as well as migration status. 49,731 Domestic Workers were recorded, of which 31,400 were female and 18,331 were male. The percentage of Migrant Domestic Workers were 15.6% in total of which 25.5% were male and 9.8% were female. Namibia conducts its LFSs every two years, so the 2020 iteration was delayed due to Covid-19. The only recommendation is to retain Namibia's current inclusion of migration status in its Labour Force Surveys going forward.

Zimbabwe: The 2019 Labour Force and Child Labour Survey included a module on migration (Zimbabwe National Statistics Agency 2020). The survey measures

both citizenship and country of birth and finds a large discrepancy between these (1,721,806 non-citizens and 253,775 people born outside the country), probably because of Zimbabwe's restrictive citizenship laws which make it difficult for people from other countries to naturalise even if they have been resident in the country for generations. Of the one percent of the population that did not have Zimbabwean citizenship, 44% had Mozambican citizenship, 27% had Malawian citizenship and 9% had Zambian citizenship (Zimbabwe National Statistics Agency 2020, 246). Only 7.4% of cross-border migrants (10.4% of males and 5.0% of females) reported migrating in search of paid work, with the largest proportion joining spouses and families or moving to study. Only 30,468 migrants are therefore categorised as labour migrants (having reported their reason for entering the country as looking for paid work), 57% of which are from Mozambique, followed by 16% from Zambia. Only these migrants are considered when reporting on employment by industry, resulting in a count of 1,331 (601 male and 730 female) labour migrants categorised as fulfilling "activities of households as employers of domestic personnel". There is no reporting on the employment activities of other non-citizens or other migrants not considered 'labour migrants.'

Eswatini: The 2017 Census (Central Statistical Office and UNFPA 2019, vol. 3) enables direct identification of migrant domestic workers by recording both industry of occupation and migration status. The census enumerated 296 foreign-born people employed in private households (173 Male, 123 Female). While the report does not provide the nationality of these migrant domestic workers, the national breakdown of migrants in the country overall, along with qualitative insights from national domestic worker organisations, suggests that the migrant domestic workers are likely to be largely Mozambican. The census also shows that only 18.4% of foreign-born women in Eswatini reported work as their reason for staying in the country (with marriage and family reunion being the main reasons), while 50.6% of foreign-born men were in the country for work.

Lesotho: The LFS confirms the extremely high proportion of the population employed in domestic work (31.2% of all employed women and 11.4% of men) and measures both industry and migration status. However, the analysis and reporting could be improved. The LFS report discusses both Lesotho nationals outside the country as well as migrants entering the country from outside under the heading "international labour migrants" (Lesotho Bureau of Statistics 2021, 167), which is otherwise not defined in the report (e.g., it is not clear whether 'foreign migrants' are measured based on citizenship or country of birth). When reporting on country of origin, only Zimbabwe, South Africa, USA, China and Europe are mentioned. There is no consistent reporting on industry by migration status.

The second consideration for evidence-based decision making relates to how data is interpreted and presented. As motivated in the introduction section, there are few policy decisions that require an exact enumeration of the number of migrant domestic workers, and in fact numbers which purport to be exact estimates but in fact include large structural biases and exclusions may be counterproductive for making the case for better protections. If the goal is to identify which countries have enough migrant domestic worker presence to warrant strong external and internal policy pressure, then estimating numbers and proportions within a reasonable range provides enough detail.

The most pressing policy discussions, moreover, require data which goes beyond aggregate estimates of volume and prevalence, and which rather disaggregates migrant domestic workers into groups with different levels and forms of vulnerability. This includes:

- **Migrant domestic workers by nationality:** this information is important for bilateral agreements, social protection portability, and understanding pathways from domestic work into other forms of employment in the destination country including through nationality networks. While some countries already collect and interpret this information, it poses challenges of small sample sizes in sample surveys. Qualitative data on nationality distribution among migrant domestic workers can provide adequate information for many of the required policy discussions.
- **Migration documentation status:** official surveys generally do not collect information about migrant documentation status since this would compromise migrants' willingness to be surveyed and could be abused by state organs. Nonetheless, many policy decisions, including concerning the likely impact of labour rights formalisation, depend on the extent to which migrant domestic workers are undocumented. Again, qualitative methods or dedicated surveys run by non-governmental agencies may be necessary here, with careful instrument design and data protection to minimise the risk of respondent refusal and data abuse.
- **Labour vulnerability:** information on the number/proportion of migrant domestic workers in vulnerable employment situations including in unpaid forms of domestic work, compared with national domestic workers, would provide invaluable insights for advocacy on labour protection policy and implementation. Dedicated studies like those implemented in Tanzania and Zambia in 2012 by the ILO, but with greater focus on migrant domestic workers and in countries with greater migrant domestic worker populations, would be very valuable.

8. Recommendations

Our recommendations relate to the mandate of the ILO Southern African Migration Management (SAMM) project (ILO 2020) to support:

- strengthened and informed decision-making
- improved policy environment and
- better management of labour migration and mixed migration flows

Our findings show that while migrant domestic workers can be found to some extent in all countries in the region, their distribution is so skewed that South Africa's migrant domestic worker population (upper estimate around 200,300) is more than four times as large as the migrant domestic worker population of all other 15 countries combined (upper estimate around 42,300). An improvement in the living and working conditions of migrant domestic workers in South Africa would therefore have by far the greatest impact on migrant domestic workers in the region in terms of absolute numbers of lives improved. Our recommendations include all countries in the region to some extent, but with a greater emphasis on the main migrant domestic worker destination and origin countries.



An overarching recommendation is the importance of continuing with global, continental, SADC-level and country-level advocacy concerning the recognition of domestic work as making a crucial contribution to society and to the economy. Improving the evidence-base will support such advocacy, which can then increase the pressure for improved migration and labour protection policies and rights enforcement. The final crucial ingredient for improving living and working conditions for (migrant) domestic workers in practice is strong self-organising structures within which (migrant) domestic workers can advocate for improved conditions based on their own priorities and needs.

8.1. Recommendations on Evidence for Decision-Making

- For researchers attempting to estimate migrant domestic worker numbers from multiple sources with imperfect data and important assumptions, we recommend representing migrant domestic worker numbers and proportions as ranges rather than as estimates which purport to reflect ‘real’ numbers. This provides enough information for empirically-informed policy advice and advocacy without giving the false impression that a definitive number can be reached, given the structural biases and uncertainties in measuring the sector. If point estimates are provided, this should be accompanied by transparent margins of error. For both representations of data uncertainty – ranges or points with margins of error – clear communication is needed to help policy makers and the public (often through the media which is not always data literate) to interpret the estimates correctly. Given how misinterpretations of migration numbers in particular can be used to fan xenophobic violence, responsible communication is a core duty of researchers.
- At the same time, data quality relating to informal work, including the domestic work sector, can often be improved by strengthening existing labour force surveys and similar survey data collection systems by reducing the reliance on proxy respondents, but also increased periodicity of data collection, improving interviewer training, adopting questionnaires that incorporate accumulated good practice aligned with international standards, and integrating communication campaigns to encourage informal workers to participate, etc.
- At SADC level, ongoing efforts to improve collective migration management include the introduction of a simple and regionally standardised module of migration questions in labour force surveys (and equivalent multi-purpose surveys) across the region. This is called the SADC labour migration survey module, which has been designed but is not yet being sufficiently implemented across the countries of the region. Additional advocacy around adoption and implementation capacity should be provided. This includes advocacy and capacity building around the sample designs of the parent surveys, as well as practices relating to the enumeration of household members (related, unrelated, visitors), without which the migration module will not be fully effective in generating reliable data.
- Given the 2022 round of census data collection in a number of countries in the region, the ILO should urgently convene a working discussion with all national statistics offices in the region that are finalising plans for census data collection in 2022 and 2023 to discuss alignment of measurement of migrant domestic work. This can include not only standard variables to be included in the census forms, but also


sensitization campaigns, language accessibility, supporting de jure and de facto enumeration (usual residents and visitors), listing of all persons living in the dwelling, and treatment of live-in domestic workers as a separate household to ensure direct interview to the domestic worker, and coding of industry and occupation at detailed level. In terms of analysis and dissemination, standards should be agreed on for cross tabulation of migration and occupation characteristics and analysis of results by sex, age and ideally nationality.

- Beyond the specific engagement on census design, the ILO should deepen a training programme for NSO officials responsible for population statistics (which traditionally include migration) and labour statistics on the specifics of measuring and interpreting domestic work and migrant domestic work. One NSO official interviewed noted that many NSOs are under-resourced and under-staffed and so do not have subject experts on topics like migration and domestic work, even though measuring and interpreting these require specialised skills. The ILO can also facilitate a regional community of practice, which may be less formal than an official regional agreement on standards, through which voluntarily participating NSO officials can on an individual basis share experiences.
- The ILO should continue with the programme of developing model methodologies for national domestic work surveys started in Tanzania and Zambia in 2012-13. The intent is not to replace National Statistics Office responsibility for conducting such surveys to provide regular data on this group of workers, but rather to design and test best practice in this complex area which takes migration dynamics into account. The ILO should adapt the existing preliminary guidelines for designing and running national surveys of domestic workers to include more consideration for the identification of migrant domestic workers (Mehran 2014). While the two pilot studies provided invaluable insights into the overall estimates of domestic work in the countries and into working conditions, they also struggled to provide much information on migrant domestic workers. This may be because they were piloted in countries with very small migrant domestic worker populations. It would therefore be useful for this dedicated survey programme to be expanded into countries in the region where migrant domestic work is more prevalent, such as South Africa, Botswana and Namibia. In South Africa, Botswana and Namibia there is some official data but we know that this is partial and often quite general. Dedicated domestic work studies along the lines of those conducted in Tanzania and Zambia might also identify major discrepancies between official data and actual domestic work activities, including domestic work not considered 'work' or not paid for, like in the Tanzania case.
- There are a range of non-governmental actors, including academics and NGOs, who conduct insightful research on domestic work and migrant domestic work, most of which is qualitative. Most qualitative studies on domestic work do not distinguish between nationals and migrants. A regional conference or seminar on (migrant) domestic work could support the discussion and coordination of research opportunities to inform migrant-specific labour rights conditions and concerns, along with sharing suggestions on methods for including migrants alongside locals in qualitative research on domestic work.

8.2. Recommendations on Migration Policy

1. South Africa, as a major country of destination for migrant workers (including migrant domestic workers), needs to ensure that its recently released draft National Labour Migration Policy (NLMP) – as of February 2022 – is aligned with SADC protocols and its commitments in terms of the African Free Trade Agreement and addresses long-term regional interests alongside short-term domestic interests.
2. SADC countries should ratify the protocols on the Free Movement of Persons (2005) and on Employment and Labour (2014), or their successors as SADC seeks to update the latter in 2022, as these two instruments have the potential to fundamentally alter the way in which countries in the region deal with labour migration.
3. Ideally, countries in the region should work towards the adoption of a harmonised policy on labour migration. There should be additional effort towards the implementation of the SADC Labour Migration Policy Framework (2014) and the Labour Migration Action Plan (2020-2025). In 2021, the SADC Technical Committee on Labour Migration adopted a monitoring tool to facilitate implementation. Countries in the region can use the two documents to craft their own NLMPs. This will also enable harmonisation with and implementation of the African Continental Free Trade Agreement, which came into force on 1 January 2021 and which includes free movement of people as well as goods.
4. Xenophobia and xenophobic violence have become a matter of serious concern especially in South Africa where regular flare ups of violence targeting migrants of African (“Afrophobia”) and Asian origin are commonplace. A harmonised economic development policy, together with a labour migration policy, are essential to promote integration and collaboration within the region and continent for sustainable development and social justice in accordance with the 2030 Agenda, the SDGs and the ILO Abidjan Declaration *Advancing Social Justice: Shaping the Future of Work in Africa*.
5. Countries of origin should provide potential migrant domestic workers with the information they need to make a more informed decision prior to migrating, and to have access to support should they end up in an abusive situation. This could include public information campaigns which provide information on basic rights, labour rights, actual working conditions, accessing services and current trends in primary countries of destination, as well as government and civil society contacts for support.
6. Countries in the region should address the increasing pull of migrant workers from the region to the Middle East. This should include policy development, tracking of out-migration flows, origin country representation for migrant workers (or a regional office if embassies are not present) in destination countries, and bilateral agreements to set minimum labour protection standards for migrant workers in destination countries.

8.3. Recommendations on Labour Protections

1. C189 must be ratified by all countries in the region which have not yet done so. This provides a strong foundation for advocacy and a benchmark for national legislation and was noted as a priority by workers' rights organisations. Madagascar, Mauritius, Namibia and South Africa, which have already ratified the Convention, must dedicate time and attention to ensuring that their labour laws are in compliance with the C189.
2. The African Union and SADC should develop regional standards on domestic work labour regulation. As all countries in the region have some labour protections for domestic workers, a regional or continental agreement setting minimum regulatory standards would be powerful.
3. Governments must ensure that all domestic workers, including migrant domestic workers, have rights equal to other workers, and in line with the standards of C189. Where legal gaps exist, governments should take measures to extend legal protection, or improve the level of protection, be it through special regulations or through amendments to the general labour law. This is important in recognising domestic work as formal employment, in clarifying the rights of workers and obligations of employers given the unique nature of domestic work, and in facilitating compliance and enforcement.
4. Organisations of domestic workers and of employers of domestic workers must be consulted and engaged in dialogue on the adoption and amendment of relevant legislation, as well as on the most effective structures and procedures for labour law enforcement. 
5. Governments, especially those which have ratified C189, must take responsibility for the enforcement of labour laws in domestic workplaces, putting in place proactive measures to hold employers accountable for compliance. They must also specify the conditions under which labour inspectors have the right to enter the household where a domestic worker is employed.
6. Registration of domestic workers for social protection should be facilitated and enforced by the relevant national bodies, and exclusions must be repealed in Eswatini, Malawi, and Zimbabwe. Migrant domestic workers should be included in contributory social protection schemes.
7. National policies should be adapted to include undocumented migrant workers in labour laws and enforcement procedures. Labour law enforcement and immigration law enforcement must also be separated so that threat of deportation does not prohibit workers from reporting violations. This is especially the case in Botswana and Namibia, given that they are key destination countries in the region.
8. Collaboration amongst different structures of migrant workers support organisations should be supported, to encourage partnerships across labour unions, membership associations, grassroots networks, and other civil society actors.



8.4. Recommendations for Future Research

1. Quantitative data on domestic work is scarce, and even less is available on migrant domestic workers. Country based broad studies on the numbers, nationalities, working conditions, and social protection coverage of domestic workers will play a critical role in informing policy, and in directing and supporting advocacy initiatives. Such studies, in addition to focussing on the labour and migration rights dimensions included in the current report, can also contribute to quantifying the economic contribution of (migrant) domestic workers to the national economy, given the crucial role domestic workers plays in freeing the women who employ them, in particular, from domestic chores and enabling them to join the labour market. Migrant domestic work also contributes to the regional economy through remittances sent back to families in workers' home countries.
2. Further policy research is required on how the African Continental Free Trade Agreement which came into force on 1 January 2021 and which includes free movement of people as well as goods, aligns with existing migration policy frameworks on the continent and its regions and can be used to motivate for improvements in the movement of people, portability of skills documentation and portability of social protection and welfare mechanisms across borders.
3. This report has not included a discussion of child labour in the domestic work sector or the experiences of child migrants. There is anecdotal evidence that child labour in domestic work occurs in many of the countries in the region and more information is needed through specific research methodologies to understand the scale and nature of this work.



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