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**THE SOUTHERN  
AFRICAN**

MIGRATION MANAGEMENT  
PROJECT



**Malawi Government  
Tripartite Dialogue on Labour Migration  
Governance  
02-04 August 2022  
Chikho Hotel, Mponela, Malawi  
Dialogue Report**



## Opening Session

*The Opening Session of the Dialogue was moderated by Labour Commissioner, Mr Hlalerwayo Kelvin Nyangulu*

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

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

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

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

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

### ***Opening Remarks by The Permanent Secretary for Labour, Mr. Wezi Kayira***

Mr. Kayira welcomed everyone to the Dialogue. He went on to thank the European Union (EU) through the Southern Africa Migration Management (SAMM) project for funding the SAMM Project and the partner organisations implementing the Project, thus, the International Labour Organisation (ILO), International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC). He also thanked the African Regional Labour Administration Centre (ARLAC) for the consultancy service and leadership in organising the National Dialogue.



Mr. Kayira noted that Malawi had launched the Joint Labour Migration Programme in May 2022, and was glad to participate in the National Dialogue on Labour Migration and Mixed Migration under SAMM project. He noted that the main focus was on migration governance and its developmental aspect. On the other hand, it is a human rights issue in the context of violations of human rights, such as, trafficking in persons. He highlighted to the Dialogue that Malawi was in the process of developing its National Labour Migration Policy. This Dialogue would therefore certainly give the nation the zeal, the impetus and the vigour to move with accelerated speed. He informed the participants that the Dialogue came at an opportune time as the nation was finalising the policy. Thus, it would provide with the much-needed knowledge to identify gaps and strengthen our policy document.

Malawi ratified the Migration for Employment Convention (Revised), 1949 (No. 97) on 22nd March, 1965, but was yet to ratify other related conventions such as Convention 143 – Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143), and the Private Employment Agencies Convention, 1997 (No. 181). He appealed to the ILO, the IOM and the EU for support to undertake a gap analysis on the unratified conventions. He noted that the country was motivated to ratify these conventions in order to regulate employment agencies and strengthen the respect of the basic human rights of all migrant workers.

Mr. Kayira encouraged all participants to actively participate and make use of the Dialogue to acquire knowledge so as to be able to serve migrant workers better. He noted that migrant workers play a very important role in the development of both the countries of destination and origin. They provide the much-needed skills in the destination countries thereby increasing productivity which spur development.



## **A. Labour Migration**

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

**Presentation:** It was noted that the term international migrant worker refers to both international migrants and non-resident foreign persons who are employed or unemployed in the country of measurement. The ILO estimated that there were 169 million migrant workers in 2019, an increase by 5million from the 2017 estimate. The number of migrant workers in Africa increased from 9.5 million in 2010 to 14.5 million by 2019, and the average share of women migrant workers was 38 percent. The number of migrants in Malawi is estimated at around 191 thousand in 2020 (1 per cent of the population, estimated at 19.1 million in 2020). Around 311,000 Malawians are estimated to be abroad (UNDESA). Most migrants in Malawi are from other SADC countries.

The following key trends in Africa in terms of migration were highlighted:

- ✓ Labour migration in Africa is largely intra-regional. Often characterized by significant shares of both **low-skilled and high skilled workers**. Consolidation of **South-South migration corridors** to neighboring labour markets in the search for a job and better wages.
- ✓ Demand in **economic sectors** such as agriculture, fishing, mining and construction as well as services such as domestic work, health care, cleaning, restaurants and hotels, and retail trade are significant drivers within the continent.
- ✓ **“Mixed migration” flows:** African migrants, asylum seekers and forcibly displaced persons often use the same migration routes.
- ✓ **Growing inter-regional corridors** to the Middle East and Gulf Cooperation Council (GCC) countries, while more traditional flows to Europe and North America continue to be important.

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

### **Discussions**

- How can we mainstream labour migration policy in national policy- coherence with employment policies, which are linked to overall national development policies. Labour



migration can be used to address human resource deficits and can be part of the development strategy in terms of remittances and brain gain (in outward labour migration, if their rights are respected)

- How to established effective complaints handling mechanisms in labour migration in SADC – there in need to ensure that migrant workers have access to justice in countries of destination, this can be done through training labour attaches in countries of destination, exchange and interaction between trade unions in countries of origin and destination, establishment of migrant resource centers.

### **Key Priority Area 1. Bilateral Labour Migration Agreements**

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

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

#### **Discussions:**

- It was noted that Malawi was a host, transit and sending country in terms of labour migration;
- People migrated to Malawi in search for employment, fleeing conflicts and for business opportunities. People migrate from Malawi for employment and education advancement.
- Also discussed for issues of skills recognition at the country level, where there was need to ensure that the purported skills by migrant workers were verified and authenticated;
- The employment of nationals by foreigners in the country was also raised as an issue for discussion, as it was noted that some foreign nationals (employers) mistreated nationals so as to have reasons for employing people from their countries of origin.



- Capacity building and involvement of social partners of the development and content of BLMAs

## Key Priority Area 2. International Labour Standards on the protection of migrant workers

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

- *Migration for Employment Convention (revised), 1949 (No. 97)* - provides for equality of treatment and non-discrimination in respect of nationality, race, religion or sex between migrant workers who have been regularly admitted and nationals, arising out of laws or regulations or the practices of the administrative authorities in four areas: living and working conditions, social security, employment taxes and access to justice. The provisions include, among others, equal remuneration, membership of trade unions, and enjoyment of the benefits of collective bargaining.
- *Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)* - aims to eliminate illegal migration and illegal employment and sets requirements for the respect of rights of migrants with an irregular status, while providing for measures to end clandestine trafficking and to penalize employers of irregular migrants. The Convention is aimed at protecting migrant workers from working in abusive conditions. It seeks to promote equality of opportunity and treatment of migrant workers.

Conventions Nos 97 and 143 **recognize a very important set of labour rights for migrant workers**, laying the foundations for promoting a rights-based approach to achieving fair labour migration. Recognizing that migrant workers are workers endowed with labour rights can also help to promote tolerance and reduce discrimination and xenophobia in and outside the workplace, and enhance economic productivity and social cohesion.

*Private Employment Agencies Convention, 1997 (No. 181)* - One purpose of this Convention is to allow the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions. Convention No.181 states that a Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies

It was noted that Malawi ratified the Migration for Employment Convention (Revised),1949 (No. 97), but was yet to ratify other related conventions such as Convention 143 – Migrant Workers



(Supplementary Provisions) Convention, 1975 (No.143), and the Private Employment Agencies Convention, 1997 (No. 181).

**Discussion:**

- On the protection of migrant workers, it was noted that migrant workers are covered by all ILS unless if the ILS specified that it would not cover migrant workers;
- It was noted that although Malawi had not ratified ILO-C143, it had developed recruitment guidelines that took into account the provisions of the Instrument;
- Support from the ILO was requested in assisting the country undertake a gap analysis towards the ratification of other labour migration ILS; and,
- It was recommended that Malawi ratify all key labour migration conventions and put in place regulations for the functioning of PrEAs in the country.

### **COMESA and Trade Facilitation: Free Movement of Persons, Labour and Services**

**Presentation:** it was noted that COMESA was established in 1981 as the Preferential Trade Area for Eastern and Southern Africa (PTA) within the framework of the OAU Lagos Plan of Action and the Final Act of Lagos towards the establishment of the African Economic Community (AEC). The aims and objective is to - attain sustainable economic growth and development through trade and investment; and, create and maintain a full Free Trade Area guaranteeing the free movement of goods, services and persons (Factors of Production) and conducive environment for investment. Member countries were noted as, Burundi, Comoros, DRC, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia and Zimbabwe

It was noted that Cap 25 of the COMESA Treaty was dedicated to Human Resource Development and Technical Cooperation. Article 156(1) of the COMESA Treaty embodied an agreement to undertake concerted measures to foster cooperation in human resource development and greater utilization of human, technical know and institutional capabilities in all fields of activity of the Common Market. Art 156(2) provided for an agreement among other things to coordinate human resource policies development policies and programmes.

It highlighted that the following agreements were made, to;

- a. Adopt individual, bilateral and regional measures to achieve progressively the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence by citizens within the Common Market.
- b. Conclude a Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Right of Residence (Free Movement Protocol);





- c. Agreed to continue implementing the COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visas (Visa Protocol) until the Free Movement Protocol enters into force.

A Protocol was adopted in 1984 with an intention to facilitate particularly the movement of business persons within COMESA. The Protocol was premised on two key elements: ninety-day visa free regime and access to visa on arrival. COMESA Member States are implementing the protocol at various levels on the basis of the principle of variable geometry with Member States.

Under SAMM for enhancing implementation of COMESA Free Movement Programme, the following activities are being undertaken:

- Revision of a Strategy and Roadmap/Action Plan for Implementing COMESA legal instruments and decisions on Free Movement of Persons, Labour and Services by the two COMESA Task Forces on Capacity Building and Implementation of COMESA legal instruments and decisions on Free Movement of Persons, Labour and Services (SAMM/COMESA Trade Facilitation Programme);
- Development of the first COMESA Labour Migration Statistics/Trends Report to be adopted by a joint Meeting of COMESA Ministers Responsible for Immigration and Ministers of Labour;
- Biannual Migration Dialogue for COMESA (MIDCOM);
- COMESA awareness and sensitization creation programme of COMESA Legal Instruments and Council Decisions (ILO/IOM);
- Provision of technical support and capacity building to Member States on the collection; analysis and dissemination of labour migration data;
- Provision of technical support to COMESA Member States on the development of Labour Migration Policies and Legislation based on key regional instruments (COMESA/SADC) and Key ILO Conventions on Labour Migration;
- Review of the COMESA Model Law to include emerging issues and Labour Migration

### *Discussions*

- There is need to strike a balance between trade, labour migration and national legislation to ensure that there is beneficitation to national development;
- It was noted that people are not commodities and hence should not be looked at exports, as this exposes them to abuse
- There is need for a whole-government and whole-society approach to laboiur migration to ensure that no-one is left behind in development and policy formulation.

## **Key Priority Area 3. Social Protection for Migrant Workers**

**Presentation:** the presentation covered the following key areas in relation to migration and social protection (i) Key arguments for extending social protection to migrant workers and their families;



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

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

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

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

**Discussions:** There is need to extend social security schemes to cover workers in the informal economy and ensure that such benefits are portable upon departure to countries of origin;

#### **Key Priority Area 4. Labour Migration Statistics**

**Presentation:** Malawi is one of the few countries in the region with relatively detailed labour migration data. ILOSTAT has labour market data from the 2005, 2011, 2017, and 2020 Integrated Household Survey, the 2013 LFS, and 2018 Census, including labour migration stock data (disaggregated by age, sex, country of birth, status in employment, broad occupational and sectoral categories.). Data on inflows and nationals abroad is not available. A 2014 IOM Migration Profile based on 2008 Census data (NSO, 2008) provides information on aggregate migrant stocks by sex and age, and even some comparisons of occupational and sectoral disaggregation, but analysis remains limited.



It was highlighted that data from Census of 2018, counted 255,000 emigrants and 57,000 immigrants in 2018. ILOSTAT contains data on working age population of *foreign-born*. 119.4 thousand in 2020, making up 1.2% of the total working age population of Malawi. LFPR is comparable between foreign and native-born, around 68.3 or .7%. The prime age foreign born pop has a LFPR of 75%, compared to 69% for native born population (80% of FB is 25-64). Less than 1% have more than basic education. Sectoral data from 2018 Census shows 52% are employed in agriculture, and about 42% in services (vs 30% in total LF).

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

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

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

- ✓ Technical support and capacity building to harmonizing statistical indicators with international statistical standards;
- ✓ Supporting integration of up-to-date migration modules in upcoming surveys (LFS, Census, NHIES, Financial Inclusion);
- ✓ Support to capture skills, as this is integral to labour migration statistics; and,
- ✓ Technical support to analyzing existing data and data sources.

#### **Key Priority Area 5. Fair Recruitment of migrant workers**

**Presentation:** Well managed migration benefits all. Labour recruiters play an important role in matching jobseekers with employment opportunities. However, exploitation of workers during recruitment is far too common. Unethical recruitment practices expose labour recruiters to the risk of losing business, incurring reputational costs, and facing legal liabilities. Challenges in labour migration commence from the recruitment stage. The vulnerability of migrant workers is caused by language in cultural barriers, living family and support networks behind, discrimination and social isolation, lack of awareness of their legal rights and protections, employer-specific work permits, fear of deportation, lack of access to justice, and, migration costs.



The IOM has established the International Recruitment Integrity System (IRIS), which is a consortium of international stakeholders committed to the fair recruitment and selection of migrant workers. The goal of IRIS is to make international recruitment fair for everyone involved: migrant workers, employers, recruiters and countries of origin and destination. It does this by: Promoting respect for the rights of migrant workers; Enhancing transparency and accountability in recruitment; Advancing the Employer Pays Principle; Strengthening public policies, regulations and enforcement mechanisms. It was also noted that the Montreal Declaration enables governments to ensure that there is ethical recruitment of migrant workers if put in practice.

***Discussion:***

- BLMAs have to be negotiated between the countries and avoid the use of PrEAs in the processes;
- There is need to ensure that the working conditions in the BLMA provides protection for migrant workers and ensure that the contracts of employment are vetted before workers migrate;
- It was noted that Malawi has BLMAs with UAE and South Africa;
- There in need for training on the development of BLMAs at the country level, to ensure that the content is in line with best practices and does provide protection to migrant workers
- The need to raise awareness on ethical and fair recruitment;
- The need for capacitation of the relevant stakeholders on issues of ethical and fair recruitment;
- Establish an association of PrEAs in the country and capacitate them.

## **Key Priority Area 6. Skills Development and Labour Migration**

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

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

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



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

**Discussion:** the following issues were discussed-

- There need to develop catalogue of skills requirement in the country and ensure that the skills are missing in the country before attracting migrants in the country;
- Need to reform the TVET sector in order to ensure that the skills gap is closed and skills are recognized through RPL;
- Need to develop a system for skills anticipation and skills audit to be undertaken.
- Need to have a skills development programmes to allow for skill export by the country.

### **National Labour Migration Policy: Identification of Priority Activities/Interventions per KPA on the 2022-23 implementation of the NLMP**

It was highlighted that the process of developing the National Labour Migration Policy commenced in 2020 and the process is towards the end. The Policy goal was to address the challenges of labour migration and harness its benefits for national socioeconomic development.

The policy outcomes included:

- ✓ Improved and up-to-date legislative instruments and regulatory frameworks governing labour migration;
- ✓ Enhanced coordination and collaboration of labour migration initiatives among stakeholders;
- ✓ Improved cooperation between Malawi and popular destination countries as well as relevant international organisations;
- ✓ Enhanced mainstreaming of labour migration in development policies and strategies;
- ✓ Enhanced mechanisms for protection of migrant workers and members of their families, including social protection;
- ✓ Increased flow of remittances from migrant workers’;
- ✓ Enhanced skills transfer from migrant workers to the local labour force;
- ✓ Improved labour migration data.

The priority areas of the policy were noted as follows:

- ✓ Priority Area 1: Labour Migration Governance
- ✓ Priority 2: Protection of Migrant Workers and Members of their Families
- ✓ Priority 3: Migration and Development
- ✓ Priority 4: Labour migration data



*Discussions* - The ILO and IOM noted that the following in support to the plan:

- For refugees whose secure employment or engage in economic activities to should they be treated as labour migrants- it was highlighted that workers across the board were supposed to be offered the same protection as ILS did not discriminate between migrant workers and nations. It was also noted that by providing the same protection, this would ensure that migrant workers have their rights not violated and there is no race to the bottom in terms of the working conditions at the national level, as employers who not favour employing migrant workers for less working conditions.
- How best do we handle the retention of critical skills without violating the rights of those that want to immigrate once they secure opportunities- it was noted that the provision of decent working conditions at the national level was a good way of ensuring that people did not migrate, and this would make migration a choice rather than a need. Thus, creating employment (decent employment) across all sectors was key in returning skills at the national level.
- What is meant by due diligence and whose duty is it to undertake true diligence- due diligence refers to 'an enterprise's ongoing process which aims to identify, prevent, mitigate, and account for how it addresses the adverse human rights impacts of its own activities or which may be directly linked to its operations, products or services by its business relationships. It was noted that it was the responsibility of all stakeholders involved in the recruitment and migration of workers.
- Where is the country in terms of development and what are the timelines for finalisation? - the Ministry noted that the process of the drafting was almost complete and the draft policy would be handed over to cabinet in September 2022. It was also noted that the SAMM Project is ready to support the finalisation if clear timelines are set. The need to ensure that the policy takes into account and is aligned to global, continental and regional instruments was highlighted and noted.

### **Agreed Areas of Support from the SAMM Project**

Beyond the assistance in the finalization of the Labour Migration Policy and its implementation, Malawi requested the following support from the SAMM Project:

- a. Establishment of national legislation on labour migration;
- b. Development of legislation and regulations of private employment agencies;
- c. Support to undertake a gap analysis of national legislation vs ILS, towards the ratification of key labour migration conventions;
- d. Establishment of a Migrant Resource Centre;
- e. Awareness raising on migration to promote regular migration, peaceful coexistence with migrants and positive aspects of migration, among others;



- f. Improving labour migration data collection through research, surveys as well as administrative data;
- g. Arrange a learning visit to a country that is doing well in labour migration e.g. the Philippines; and,
- h. Capacity building of stakeholders on labour migration starting with the National Steering Committee, covering key areas of labour migration such as mainstreaming of labour migration in development policies and strategies, cooperation and collaboration among stakeholders, addressing social protection needs of labour migrants, negotiating for BLAs and other bilateral imperatives, complaint and redress mechanisms/procedures, etc.



## B. Mixed Migration

### Mixed Migration in Malawi

Ministry of Homeland Security noted that mixed migration refers to “cross-border movements of people, including refugees fleeing persecution and conflict, victims of trafficking and people seeking better lives and opportunities”. Malawi has become not only an important “transit” country for immigrants heading to other Southern African countries, but also a preferred destination choice. International migratory movements in Malawi have become more complex in recent years and are increasingly mixed in character. These movements include women, men and children leaving their own country and seeking to take up residence in another country for a variety of reasons and at times using the same modes of transport; employing the services of the same people smugglers and are exposed to the same risks and abuses.

Migrants transit Malawi to reach Mozambique and Zambia en route to South Africa. Due to limited reception and return capacity, migrants who are caught in Malawi often end up in overcrowded prisons, where they are locked up with common criminals, often beyond their sentences. Although most are young men looking for job opportunities in South Africa, a growing number are unaccompanied minors.

In an attempt to address the situation, the government and other partners are looking for ways to decongest prisons by identifying alternatives to detention, revisiting sentencing strategies and engaging countries of origin in dialogue to develop a comprehensive migration policy to manage migration in a humane and orderly fashion. The Government of Malawi has developed a National Migration Policy to efficiently and effectively manage migration in a humane and orderly fashion.

#### *Discussions*

It was noted that:

- ✓ the Government of Malawi was working with the Governments of Ethiopia and Rwanda on the repatriation of their nationals from Malawi;
- ✓ the Government has instituted a National Migration Policy and this has seen the (i) Immigration Act being reviewed to be in line with international best practices; (ii) trade and migration structures are also under review; and, (iii) migration data is a focus area;
- ✓ there is need to work on the development on migration centres as migrants are held in prisons as their paperwork is being processed;
- ✓ there was need to establish systems that recognized the skills of migrants (in mixed migration) and offer them opportunities to develop needed skills for personal and national development;
- ✓ the need to build capacity within the law enforcement agents on how to handle migrant workers was highlighted a critical.





## Mixed Migration: Concept, Trends and Issues

**Presentation:** The presentation noted that mixed migration, (mixed movement or mixed flows) was defined as ‘complex population movements including refugees, asylum seekers, economic migrants and other migrants’. Unaccompanied minors, environmental migrants, smuggled persons, victims of trafficking and stranded migrants, among others, may also form part of a mixed flow. Motivated to move by multiple factors, people engaged in mixed migration have different legal statuses, and face a variety of vulnerable situations. Although entitled to protection under international human rights law, they may often be exposed to multiple rights violations along their journey.

Intra-regional migration in Southern Africa is driven largely by the pursuit of economic opportunities, political instability and environmental hazards and disasters. South Africa (4.2 m) is the main country of destination (followed by DRC and Angola) the most industrialized economy in the region and an attractive destination for those in search of education and better opportunities. Comoros, Madagascar, Malawi, Mozambique and other countries are frequently affected by natural hazards such as cyclones and flooding. Slow-onset disasters such as drought impact the lives and the migration patterns of millions in Botswana, Eswatini, Lesotho, Namibia and Zambia (SADC, 2019).

Irregular migration in these regions of Africa is not as well understood compared with others in the continent, with only a few data sources available about certain routes. One of the most well-documented is the “Southern Route” from East Africa to South Africa, Zambia, Malawi and Mozambique.

**Discussions:** the Dialogue noted the following-

- ✓ the need to build data on migration was noted and the national census and LFS were noted as tools to collect such data;
- ✓ working under the DTM- Flow Migration Registry Report, it was highlight that such data was critical to understand the flow of migrants across the identified eight (8) points and Government could use such data for policy development and intervention;

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

**Presentation:** it was noted that based on the 1951 Geneva Refugee Convention, UNHCR's core mandate is to ensure the international protection of uprooted people worldwide. The organization promotes the basic human rights of refugees and ensures they will not be returned involuntarily to



a country where they face persecution. Persons under UNHCR Mandate include- Refugees; Asylum seekers; Stateless persons; and, Internally displaced persons.

Malawi hosts about 55,500 persons of concern (as of 31 July 2022); 32 647 refugees; 22 612 asylum seekers; and, 241 other of concern. The Government of Malawi does not maintain statistical data on stateless persons (study underway).

It was noted that the country has made pledges under the Global Compact on Refugees[GCR], which include:

- Legal review and policy reform
  - National Migration Policy was drafted and is pending adoption
  - Refugees Act – Plans to review the refugee act underway
  - Inclusion of refugees in the national agenda
- Revisiting of reservations
  - Encampment policy
  - The right to economic activity (employment)
- Registration of Refugees in the NRIS and documentation
  - Amendment of National Registration Act is underway
  - E-CTDs available
- Self-reliance and settlement approach
  - Decongestion of the camp with expansion in Dzaleka hills and Katubzya
  - Regular predictable sources of income have been encouraged with support from UNHCR, CARD and WFP.

On the issue on Refugees being able to Work in Malawi, it was noted that:

- Informal Sector – in the camp and elsewhere - without permits therefore subject to abuse and exploitation
- Formal sector – as teachers, doctors, and other professions but require work permits – challenge
- Restriction of freedom of movement still a challenge
- Access to financial institutions and services: refugees can open a bank account using a refugee identity card

### ***Discussions***

In order for an enabling migratory labour environment for refugees in Malawi need to:

- Lifting of reservations to allow for:
  - free movement and
  - Freely engaging in wage-earning employment
- Waiving requirement for work permit for refugees
- Local integration
- Inclusion of refugees in development plans



## Closing Remarks by the Minister of Labour, Honourable Vera Kamtukule

She began by thanking the European Union (EU) of funding the Southern Africa Migration Management (SAMM) project including the Dialogue and the implementing organisations; the ILO, IOM, UNHCR and UNODC. She went on to thank all the Delegates for their participation in the Dialogue.

She noted that Labour Migration and Mixed Migration offered opportunities to countries of origin, transit and destination. Migrant workers provided the much-needed skills in the destination countries thereby increasing productivity which spur development. Migrant workers also acquire new skills acquired while in the countries of destination, which later benefit the countries of origin. In order to reap the benefits of migration we need to address the challenges that threaten safe, orderly, regular and responsible migration.

The Minister noted that the topics covered over the three days were very important for Malawi, as there was a plethora of both local and foreign private employment agencies involved in or intending to venture in the business of exporting Malawian labour to various destinations around the world including the Gulf Region. Most of them not complying with international standards as well as own labour export guidelines. Hence, Malawi need sound policies, to ratify relevant international labour standards; to conclude bilateral labour agreements with countries that require Malawian workers; to see fair recruitment and decent employment for migrant workers including legislation on private employment agencies, aligned to international standards.

In closing she noted that there was need to translate theory into practice to improve the labour migration systems in Malawi to re-invigorate our people with hope and confidence. Therefore, there was need to aim to have national policies and strategies, and initiatives that will:

- ✓ Engage our leaders in high-level policy action on the different aspects of labour migration;
- ✓ Promote better national policies and interventions on the different aspects of labour migration;
- ✓ Bring together knowledge and best practice on what works in the different aspects of labour migration;
- ✓ Support the inclusion of women and youth in development, and create opportunities for direct engagement in the different aspects of labour migration.



**Annex 1: Pictures**



## Annex 2: Participants List

No	Name and Surname	Ministry/Organisation	Male/Female
1	Mr. Wezi Kayira	Ministry of Labour	M
2	Mr. H.K.K. Nyangulu	Ministry of Labour	M
3	Mr. Wafwilre Musukwa	Ministry of Labour	M
4	Mr. Lenius Daiton	Ministry of Labour	M
5	Ms. Ziona Lungu	Ministry of Labour	F
6	Ms. Chisomo Kalogwile	Ministry of Labour	F
7	Mr. George Chilonga	Ministry of labour	M
8	Mr. Simeon Chiusi	Ministry of labour	M
9	Ms. Daina Masina	Ministry of Labour	F
10	Mr. Vivian Kasambo	Department of Immigration	M
11	Mr. Bright Jambo	Ministry of Homeland Security –Prosecution	M
12	Mr. Kondwani Kamanga	Ministry of Homeland Security –Trafficking in Persons	M
13	Mr. Harvey Banda	Academia (Mzuzu University)	M
14	Mr. Pachalo Chizala	National Statistical Office (NSO)	M
15	Mr. Joseph Kamkhwangwa	Malawi Congress of Trade Unions (MCTU)	M
16	Mrs Ellen Phiri	Employers’ Consultative Association of Malawi (ECAM)	F
17	Mr. Trevor Kandoje	Private Employment Agencies (Job Centre)	M
18	Mrs. Patricia Kaupa	Malawi Investment and Trade Centre (MITC)	F
19	Mr. Makhumbo Munthali	Malawi Human Rights Commission	M
20	Mr Abdul Limbe	Ministry of Justice	M
21	Mr. Dalisto Chikoti	Ministry of Foreign Affairs and International Cooperation	M
22	Mr. Jesse Mertens	ILO	M
23	Mr Theodoor Sparreboom	ILO	M
24	Ms. Sheila Ngoveni	ILO	F
25	Ms Princelle Dasappa-Venketsamy	IOM	F
26	Mr. Patrick Nalere	ARLAC	M
27	Mr. Nyasha Muchichwa	ARLAC	M
28	Mr. Brian Chigawa	Consultant	M
29	Mr P S J Mthelo	Ministry of Labour	M
30	Mr B Malilana	Ministry of Labour	M
31	Mr M Kapito	Ministry of Labour	M
32	Mr S Nambwu	Immigration	M
33	Mr G Nkhoma	MoHS and Police	M
34	Mr. James Mbuliro	Ministry of Justice	M
35	Mr. Eastwick Chikuni	NSO	M
36	Mr. Tiyayane Butao	Ministry of Labour	M
37	Mr. Ndamuo Kabuye	ILO	M
38	Mr. Ali Barnet	DPT for Refugees	M



<b>39</b>	Mr. Hastings Mjologole	Ministry of Labour	M
<b>40</b>	Mr Joseph Mkolongo	Ministry of Labour	M
<b>41</b>	Mr. Friday Phiri	Ministry of Labour	M
<b>42</b>	Mr. Innocent C. Phiri	Ministry of Foreign Affairs	M
<b>43</b>	Mr. Happy Chinangwa	MITC	M
<b>44</b>	Ms. Jacqueline Mpanyula	IOM	F
<b>45</b>	Mr. Ephram Chnjiza	ILO	M
<b>46</b>	Mr. Mohammed Hussein	UNHCR	M
<b>47</b>	Ms. Sarah Nayeja	UNHCR	F
<b>48</b>	Ms. Ivy Chihana	DPT for Refugees	F

