



2022 RAPID ASSESSMENT ON BILATERAL LABOUR MIGRATION AGREEMENTS (BLMAs)

CORRIDOR: KENYA TO RWANDA/ RWANDA TO KENYA

MAY 2022

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This publication has been produced by the International Organization for Migration (IOM)/UN Migration, within the framework of the “The Better Regional Migration Management Programme (BRMM)” Labour Mobility and Regional Integration for Safe, Orderly and Humane Labour Migration in East and Horn of Africa: East Africa Migration Management, a regional, multi-partner, pilot project funded by the Foreign Commonwealth and Development Office of the United Kingdom. The BRMM programme aims to enhance labour migration governance and protection of migrant workers and their family members’ human, social and labour rights through intra and inter-regional cooperation on a whole-of-government and whole-of-society approach, to support regional integration and facilitate mobility for transformative inclusive and sustainable economic growth as well as youth and women empowerment.

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1. ACKNOWLEDGEMENTS

The Rapid Assessment of the Kenya to Rwanda and Rwanda to Kenya Labour Migration Corridor has been developed in close coordination and partnership between the IOM/UN Migration Regional Office for the East and Horn of Africa as well as IOM Country Offices in Rwanda and Kenya.

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2. ACRONYMS

AEC	African Economic Community
AU	African Union
BLMAs	Bilateral Labour Migration Agreements
BMM	Better Migration Management
CoD	Country of Destination
CoO	Country of Origin
CSO	Civil Society Organization
EAC	East African Community
EHoA	East and Horn of Africa
FGD	Focus Group Discussion
FMP	Free Movement Protocol
GCC	Gulf Cooperation Council
GCM	Global Compact for Safe, Orderly and Regular Migration
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit, GmbH (German: German Society for International Cooperation, Ltd.)
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IML	International Migration Law
IP	Implementing Partner
IMRF	International Migration Review Forum
EU-IOM JI	European Union-IOM Joint Initiative
JLMP	Joint Labour Migration Programme
KII	Key Informant Interview
LMIS	Labour Market Information System
MOU	Memorandum of Understanding
MPFA	Migration Policy Framework for Africa
MRA	Mutual Recognition Agreement
MS	Member State

NCM	National Coordination Mechanism on Migration
NEA	National Employment Authority (Kenya)
NITA	National Industrial Training Authority (Kenya)
ODL	Occupations in Demand List (Rwanda)
PEA	Private Employment Agency
PRA	Private Recruitment Agency
PESC	Public Employment Service Centre (Rwanda)
PPE	Personal Protective Equipment
REC	Regional Economic Community
RDB	Rwanda Development Board
RLMP	Regional Labour Migration Policy
RMFM	Regional Ministerial Forum on Migration
RMG	Regional Monitoring Group
RMMS	Regional Mixed Migration Secretariat
SADC	Southern Africa Development Community
SDGs	Sustainable Development Goals
TVET	Technical and Vocational Education and Training
UAE	United Arab Emirates
UN	United Nations
UNAIDS	The Joint United Nations Programme on HIV/AIDS

3. GLOSSARY¹

Assisted Voluntary Return

Administrative, logistical, financial and reintegration support to rejected asylum seekers, victims of trafficking in human beings, stranded migrants, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin.

Asylum Seeker

An individual who is seeking international protection. In countries with individualized procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker will ultimately be recognized as a refugee, but every recognized refugee is initially an asylum seeker.

Bilateral Labour Migration Agreements (BLMAs)

Bilateral labour migration agreements are arrangements between two States. They describe in detail the specific responsibilities of each of the parties and the actions to be taken by them with a view to accomplish their goals. The ILO Migration for Employment Recommendation (Revised), 1949 (No. 86) contains in its Annex a Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons.

Bilateral Labour Arrangements (BLAs)

All forms of bilateral arrangements between States, regions and public institutions that provide for the recruitment and employment of foreign short- or long-term labour. Note: Bilateral labour arrangements is a broader term, compared to bilateral labour agreements, encompassing non-legal arrangements such as memorandums of understanding (MoUs), as well as “non-governmental” arrangements, for example arrangements between national employment agencies in different countries.

Country of Destination

In the migration context, a country that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly. May also be referred to as host country, receiving country, or State of employment.

Country of Origin

In the migration context, a country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly. See also home country, State of origin

Country of Transit

In the migration context, a country through which a person or a group of persons pass on any journey to the country of destination or from the country of destination to the country of origin or the country of habitual residence.

1. IOM, 2019. https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf.

Circular Migration

A form of migration in which people repeatedly move back and forth between two or more countries.

Ethical Recruitment

Ethical recruitment means hiring workers lawfully and in a fair and transparent manner that respects and protects their rights.

Facilitated Migration

Regular migration that has been encouraged or supported by State policies and practices or by the direct assistance of international organizations to make the act of migration and residence easier, more transparent and more convenient.

Freedom of Movement

A human right comprising three basic elements: freedom of movement within the territory of a country (Art. 13(1), Universal Declaration of Human Rights, 1948: “Everyone has the right to freedom of movement and residence within the borders of each state.”), the right to leave any country and the right to return to his or her own country (Art. 13(2), Universal Declaration of Human Rights, 1948: “Everyone has the right to leave any country, including his own, and to return to his country.”)

Human Trafficking

The “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of others or other forms of sexual exploitation, forced labour or services, slavery or practices like slavery, servitude or the removal of organs.” (Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, of the United Nations Convention against Transnational Organized Crime, 2000, art.3).

Internally Displaced Persons

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular because of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

Irregular Migration

Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents

required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term “illegal migration” to cases of smuggling of migrants and trafficking in persons.

Labour Mobility

Labour mobility – or mobility of workers – can be either occupational (movement along the occupational ladder) or geographic (movement across geographic locations). In the context of migration, geographic labour mobility is implied. Note: The term “labour mobility” has the same meaning as “labour migration” but is more frequently used nowadays to reflect the dynamic and multi-directional nature of modern migration, indicating that those who move for employment purposes may do so more than once, may move across different countries of destination and that their employment abroad may not necessarily result in settlement in another country, keeping their prime place of residence in their country of origin.

Memorandum of Understanding

A type of bilateral labour migration agreement – but a non-binding agreement that sets out a broad framework of cooperation to address common concerns.

Migrant

IOM defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. IOM concerns itself with migrants and migration-related issues and, in agreement with relevant States, with migrants who need international migration services.

Migration

The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.

Migrant Worker

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.

Refugee

A person, who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country” (Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol).

Relocation

In the context of humanitarian emergencies, relocations are to be considered as internal humanitarian evacuations and are understood as large-scale movements of civilians, who face an immediate threat to life in a conflict setting, to locations within the same country where they can be more effectively protected.

Repatriation

The personal right of a prisoner of war, civil detainee, refugee, or of a civilian to return to his or her country of nationality under specific conditions laid down in various international instruments.

Resettlement

The relocation and integration of people (refugees, internally displaced persons, etc.) into another geographical area and environment, usually in a third country. In the refugee context, the transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them.

Return Migration

In the context of international migration, the movement of persons returning to their country of origin after having moved away from their place of habitual residence and crossed an international border. In the context of internal migration, the movement of persons returning to their place of habitual residence after having moved away from it.

Smuggling

The procurement, to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (Art. 3(a), UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Smuggling contrary to trafficking does not require an element of exploitation, coercion, or violation of human rights.

Undocumented Migrant

A non-national who enters or stays in a country without the appropriate documentation.

Vulnerability

IOM defines vulnerability in a migratory context as “the reduced ability of an individual or group to resist or recover from violence, exploitation, abuse and violations of their rights. It is determined by the presence, absence and a mix of factors and circumstances that (a) increase the risk and exposure to, or (b) protect against violence, exploitation, abuse and rights’ violations”.

4. EXECUTIVE SUMMARY

The Bilateral Labour Migration Agreements (BLMAs) Rwanda to Kenya and Kenya to Rwanda Rapid Assessment provides a snapshot of the current situation for migrant workers travelling between the two countries for economic reasons as well as the current operational status of BLMAs, and all agreements that fall under this umbrella, throughout the corridor.²

This rapid assessment provides additional evidence that governments may utilize in improving labour migration governance structures. Evidence-based decision-making in labour migration governance strategies should ultimately lead to increased protection of migrant workers and benefits for both countries of origin and countries of destination. Kenya and Rwanda have a small but demonstrated flow of migrant workers between the two countries. This labour migration corridor is unique from other corridors in the region in that labour migration is more formalized and typically is represented by a higher skill cadre than other labour migration corridors in the region.

Findings show that there are significant opportunities in both Rwanda and Kenya where additional stakeholders may be involved with the BLMAs process and that more governance structure and capacitation amongst government officials is necessary for adequate implementation of BLMAs and the drafting and negotiating of existing BLMAs in future.

This rapid assessment seeks to contribute to the strengthening of regional guidance and architecture to govern labour migration through BLMAs as a tangible step towards effective implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM), Sustainable Development Goals (Targets 8.8 and 10.7), African Union's Vision 2063, EAC and IGAD Protocols on Free Movement of Persons and Regional Ministerial Forum on Migration (RMFM)³ Objectives and other relevant regional cooperation and development frameworks. The study builds on the Rapid Assessment of Migrant Workers' Vulnerability in the East and Horn of Africa: The Case of Ethiopia, Somalia and Djibouti, a research study on existing vulnerabilities of EHoA migrant workers' status and rights in destination countries (GCC) conducted from 1 August to 15 November 2020 with the financial support of BMM. It also both builds upon and utilizes data collected for the Rapid BLMAs Assessment of the Southern Corridor, Ethiopia to South Sudan, and Somalia to Kenya and seeks to portray a more complete picture of labour migration movements throughout the EHoA.

The harmonization of labour migration laws across the region, which will allow for the free movement of people locally and beyond, will also ignite economic development and boost transfer of skills within the region. Harmonizing these regulations would also serve to increase migrant worker protections and prevent the exploitation of labour through unfair practices such as excessive working hours, passport and document confiscation, confinement, denial of salary, and physical and/or sexual abuse.

The COVID-19 crisis presents us with an opportunity to reimagine human mobility for the benefit of all while advancing the commitment of the 2030 Agenda of leaving no one behind and the Agenda 2063 aspirations for a prosperous Africa.

2. Bilateral labour migration agreements (BLMAs) is the overarching term used throughout this report. It is an "umbrella" term or is inclusive of bilateral labour agreements (BLAs), memorandum of understanding (MoUs), other bilateral agreements addressing labour migration, and framework agreements or cooperation agreements addressing labour migration and other migration topics.

3. Regional Ministerial Forum on Migration on Harmonizing Labour Migration Policies in East and Horn of Africa – A United Approach on Safe, Regular and Humane Labour Migration.

5. INTRODUCTION AND PURPOSE OF THE STUDY

As recognized by the Global Compact for Migration (GCM), bilateral and multilateral cooperation remains essential for promoting human and labour rights of migrants and decent work. BLMAs are instruments that can be used to achieve this if they are drafted and implemented in a manner that both protects migrant workers as well as includes them in the socioeconomic development goals of both countries of origin and destination. Migration can be a powerful tool to foster personal growth as well as to drive sustainable development and reduce poverty. Migration can meaningfully contribute to economic development in countries of origin (CoOs), countries of transit and countries of destination (CoDs) through remittances, investment, trade and transfer of knowledge and skills. BLMAs, when used correctly, can provide a concrete means to improve governance of labour migration.

The Kenya to Rwanda and Rwanda to Kenya Corridor offers some perspective as to what evidence-based free movement may endeavour to look like in the future of the region. As labour migration in Africa is largely intraregional (80%), examination of all labour migration corridors should lead to more evidence-based labour migration governance, which in turn enables more formalized movement that results in increased protection for migrant workers and economic development for countries of origin, transit and destination. This corridor, however, is characterized by mixed migration, meaning that movement may consist of a number of people travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons. This may include asylum seekers, refugees, trafficked persons, unaccompanied or separated children and migrant workers.⁴

Labour migration, or the movement of persons from one State to another or within their own country of residence for the purpose of employment, is still relatively unexplored in the context of this corridor.

This study is a rapid snapshot of labour migration from Rwanda to Kenya and Kenya to Rwanda, looking at who is migrating and why they are migrating. The study is double-pronged, with the first avenue aimed at understanding the basic characteristics of the corridor as they currently stand and how the COVID-19 pandemic may have affected labour migration along this route. The second avenue of the study seeks to examine the existing infrastructure of bilateral labour migration agreements, the process of their negotiation and on-the-ground implementation, including all agreements falling under this umbrella, i.e., MoUs and bilateral labour agreements. The study then seeks to make recommendations for future implementation of agreements intended to formalize migrant workers pathways both within the region and beyond, ultimately leading to a decrease in overall vulnerabilities for migrant workers and members of their families within the region.

BLMAs are purportedly enacted to formalize labour migration pathways to yield increased migrant worker protection. On the ground, though, BLMAs are not always implemented in an effective manner. To assist governments and governing bodies in enacting meaningful agreements aimed at bettering the facilitation of movement between countries of origin and countries of destination, more information is needed both in obtaining a snapshot perspective of the current labour migration route between the two countries as well as barriers to establishing and enacting BLMAs and other bilateral and multilateral arrangements that fall under this umbrella.

4. IOM Glossary, 2019.

6. BACKGROUND

The East and Horn of Africa (EHOA) region remains highly mobile, with almost 820,000 movements tracked at 70 flow monitoring points in the region between January and June 2021, the majority of which (67%) were motivated by economic reasons.⁵ The second largest reason given for migrating was stated by 10 per cent of respondents was due to forced movements for various reasons. While the vast majority of the movement within the EHOA has been characterized by mixed migration flows as migrants migrating for economic reasons travel alongside asylum seekers, labour migration between Kenya and Rwanda has been at first glance more formalized. Kenya, as a more affluent African country, is perceived to be a beneficial destination for migrant workers looking for greater economic opportunities and higher pay, while Rwanda has enthusiastically moved towards operationalization of the Free Movement Protocol to fully capitalize on the benefits of labour migration for development.

A major challenge in the greater EHOA region is the fact that a significant part of labour migration occurs outside of regulated channels. As a result, migrant workers face violence, harassment and abuse during their journey, on arrival in the countries of destination and upon their return. This violence is perpetrated by both local and foreign brokers or smugglers, recruitment agencies as well as by their employers. Understanding how formalized labour migration pathways have benefited CoOs and CoDs within the region will be illustrative to other corridors.

EHOA countries have been increasingly adopting BLMAs among Member States (MS) and externally to better regulate and manage labour migration and enhance migration benefits through greater cooperation. Several countries (Kenya, Somalia and Ethiopia) have concluded or begun negotiating bilateral agreements and MoUs with GCC and Middle Eastern countries. BLMAs have also been used by EHOA countries to fill structural shortages in specific sectors of the economy, particularly shortages of highly skilled workers. For example, Rwanda entered into cooperation agreement with Kenya to provide English teachers following the change in its official language policy from French to English. Ethiopia has a MoU/BLA with Djibouti, Sudan, and South Sudan on free movement of people and goods. Tanzania also has a MoU with South Sudan for secondment of civil servants. Although the existing BLMAs and MoUs now provide a much-needed legal framework, these and other national, regional, and international frameworks and instruments still must prove their potential to govern labour migration and to substantively advance the protection of migrant workers' rights, as development and implementation of these agreements is still limited in the region. There is considerable movement to harmonize labour migration policies across the region, implement the Free Movement Protocol and eventually to bargain as a Regional Economic Community in the establishment of BLMAs.

On a larger scale, the Regional Ministerial Forum for Migration (RMFM) seeks to bring together the IGAD and the EAC to take steps towards the harmonization of labour policies across both economic blocs and the region.

5. IOM. Mid-year Mobility Overview January-June 2021 (Nairobi, 2020). Available from: https://reliefweb.int/sites/reliefweb.int/files/resources/IOM_EHOA_RoMR_Mid-2021.pdf.

The RMFM's objectives are in line with:

- » The Sustainable Development Goal 8 (SDG 8 — Promote inclusive and sustainable economic growth, employment, and decent work for all, including Target 8.8. that establishes protection of labour rights and promotion of safe and secure working environments for all workers, including migrant workers, in particular women migrants) and SDG 10 that urges countries to reduce inequality within and among countries by facilitating safe, orderly and regular migration and mobility of people, including through planned and well-managed migration policies).
- » Agenda 2063 for Africa.
- » Revised Migration Policy Framework for Africa; and
- » Global Compact for Migration (GCM), particularly Objective 23 (strengthening international cooperation and global partnership for safe, orderly, and regular migration) and Objective 6 (facilitation of fair and ethical recruitment and safeguarding conditions that ensure decent work), also resonates in the above-mentioned key themes and is supplemented by the Migration Governance Framework (MiGoF).

Furthermore, the RMFM is aligned with the African Union Constitutive Act 2000, which recognizes the right to free movement of people as a fundamental part of integration at the continental level and operationalized at the regional level through the EAC Common Market Protocol and the recently endorsed IGAD Free Movement Protocol.

To build on this Road Map and the RMFM Draft Road Map for the Implementation of the Regional Ministerial Forum on Migration and other initiatives undertaken by the Governments, IOM and other implementing partners aim to improve protection of migrant workers and to better understand mobility dynamics within and outside of the region. The IOM EHoA Regional Office recognized the need to conduct a study to assess the characteristics of labour migration between Kenya and Rwanda and labour migration governance frameworks at regional and national levels, including BLMAs, and to identify challenges encountered in drafting, negotiating, and implementing these migration governance instruments or frameworks using the IOM/ILO Assessment Tool for BLMAs.⁶ The purpose of the BLMAs rapid assessment is to contribute to the strengthening of regional guidance and architecture to govern labour migration through BLMAs as a tangible step towards effective implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM), Sustainable Development Goals (Targets 8.8 and 10.7), African Union's Vision 2063, and EAC and IGAD Protocols on Free Movement of Persons and Regional Ministerial Forum on Migration (RMFM)⁷ Objectives and other relevant regional cooperation and development frameworks.

The COVID-19 pandemic has severely disrupted mobility in the region. These restrictions have notably pushed towards more informal movement yet still severely limit migration as a livelihood option for thousands of people, narrowing its potential as an engine for socioeconomic growth. These restrictions could, over time, come to undermine free movement protocols in the region and potentially reverse earlier gains. For this reason, the study also posed the question of how the pandemic had altered labour migration pathways between the two countries and the perspectives of government stakeholders.

6. Tool for the Assessment of Bilateral Migration, 2019. Available from: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_722208.pdf.

7. Regional Ministerial Forum on Migration on Harmonizing Labour Migration Policies in East and Horn of Africa – A United Approach on Safe, Regular and Humane Labour Migration.

7. SCOPE

The scope of the rapid assessment focused on BLMAs in drafting, development and negotiation processes or those already concluded by Kenya and Rwanda covering labour migration outside of the continent as there are no current BLMAs between Kenya and Rwanda.

The rapid assessment examined a broad range of bilateral cooperation tools for labour migration governance, including bilateral labour agreements (BLAs), memorandums of understanding (MOUs) or other framework agreements or protocols for cooperation. The rapid assessment took stock of emerging trends, challenges and promising practices in the preparation and drafting, negotiating, implementing, monitoring, evaluating and revision of such (labour migration related) agreements. The rapid assessment analysed the main obstacles and roadblocks for successful implementation of BLMAs and provided the basis for preliminary recommendations or guidance for achieving greater impact from BLMAs in relation to improving the governance of labour migration and strengthening the protection of migrant workers and members of their families.

The rapid assessment is expected to:

- strengthen national and regional migration governance in accordance with the global and regional frameworks.
- provide a basis for implementing partners and government stakeholders to strengthen their existing BLMAs.
- be combined with the African Union BLA Guidance to form a solid base for the establishment of new BLMAs.
- and increase national and cross-border cooperation on trafficking and smuggling cases between investigation, prosecution, judiciary and other state as well as non-state actors.

8. METHODOLOGY AND TOOLS

The study sought to address the following questions:

- » Research question 1: What are the characteristics of labour migration in the Kenya to Rwanda and Rwanda to Kenya Corridor and labour migration governance frameworks including BLMAs or potential for BLMAs at regional and national levels?
- » Research question 2: What are the challenges encountered in preparation and drafting, negotiating, implementing, monitoring and evaluation and revision of BLMAs using the IOM/ILO BLMA assessment tool from the perspectives of both countries of origin and destination?
- » Research question 3: How has the COVID-19 pandemic affected migrant movement along this corridor and access to health services in countries of origin and destination?

The research was centred around collecting additional qualitative data along this corridor in addition to gaining a greater understanding of the challenges and bottlenecks affecting both the negotiation and implementation of existing and future BLMAs. It seeks to examine how

governments may functionally re-examine existing BLMAs or enter different kinds of arrangements in order to facilitate safe and secure labour migration for its citizens.

The study utilizes the [2019 IOM/ILO BLMA Assessment Tool](#). The tool is a joint endeavour of ILO and IOM that was piloted in the Egypt to Italy migration corridor as well as the Southern African Development Community (SADC) region to assess labour migration agreements between Zimbabwe, Lesotho and South Africa. This report follows on the Southern Corridor Assessment (Ethiopia through Kenya and Tanzania down to South Africa) and the Ethiopia to South Sudan and Somalia to Kenya Labour Migration Rapid Assessments. Some of the data used in prior assessments are used in this report. This report focuses primarily on the Rwandan labour migration governance structure given earlier inclusion of the Kenyan governance structure into the Southern Corridor report.

8.1 Data Collection Methods

The study used qualitative methods based on the IOM/ILO BLMA Assessment tool, including standard key informant interview (KII) questionnaires for CoOs and CoDs. The questionnaires focused on the experiences of government and non-government stakeholders in the migration context in the countries of focus in order to understand the challenges that host country governments face in providing services to migrant workers, both formal and informal. The questionnaires also sought a more holistic understanding of stakeholder experiences when developing and implementing BLMAs. Each questionnaire was individually tailored to the interviewee to ascertain their insights into the Kenya and Rwanda labour migration corridor and additional information pertinent to the study. As this study relied on new KIIs for Rwanda and previous KIIs for Kenya, most key informant interviews were held via telephone calls in Rwanda (November and December 2021, January 2022) and in person in Kenya between July and August 2021. For Rwanda, 9 key informant interviews and 1 focus group discussion (FGD) were held with representatives from the Rwandan Development Board, MINAFET (Ministry of Foreign Affairs), CESTRAR (Rwandan Workers' Trade Union Confederation), 3 Public Employment Centres (Muzanze, Huye, and Kigali), a representative of the Rwandan Diaspora living in Kenya, one private recruitment firm, an immigration attaché from the Kenyan High Commission in Rwanda, and IOM experts in immigration and border management.

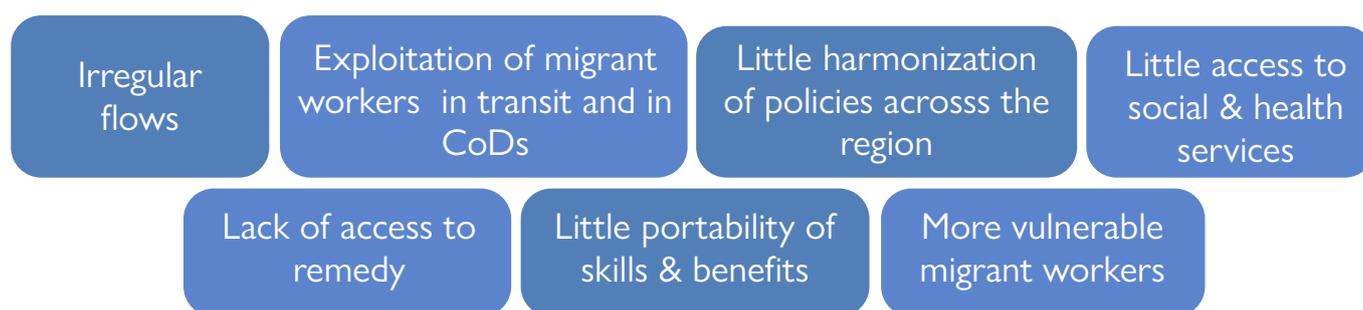
In addition, in January 2022 IOM held a training event and a workshop for Rwandan civil society organizations and Journalists in Musanze, Rwanda. Information gleaned from conversations held during these training sessions is also used in this analysis.

Limitations

Some of the limitations of the study included a short time frame in which to collect data and low responsiveness and availability of government officials for informational interviews, considering various restrictions on meetings and movement due to the COVID-19 pandemic, and the difficulty in identifying the right stakeholders for the questions from the data collection tool. Many stakeholders did not have first-hand knowledge of BLMAs. Interviews with the Ministry of Health (MINISANTE), Ministry of Labour and Public Service (MIFOTRA), and Ministry of Education (MINEDUC) were sought but not obtained.

8.2 Labour Migration Dynamics in the Region

It is essential to examine BLMAs and potential BLMAs as policy responses to labour migration challenges in the region, some of which are listed below:



To understand the analysis of how BLMAs are currently being implemented in both Kenya and Rwanda, first, it is necessary to lay the groundwork on the ways the Regional Economic Communities (RECs) are set up in their migration governance framework, how they interact with each other and how this may affect the future implementation of BLMAs or other types of agreements. The African Union recognizes 8 different RECs.⁸ The EAC is viewed as the most integrated regional economic bloc. Table 1 outlines some of the REC approaches to labour migration challenges.

Table 1: REC Responses to labour migration

Regional Entity	Regional Framework	Areas of Focus
African Union (AU)	African Union Agenda 2063	A common approach across AU membership that promotes rights based BLMAs that ensure protection and decent work for all Africans
	AU Free Movement of Persons Protocol	To assist MSs in concluding appropriate BLMAs (33 out of 55 countries currently signed, 4 ratified)
	AU Migration Policy Framework	Draft Guidelines on Developing Bilateral Labour Agreements validated and currently being translated
	Revised Migration Policy Framework	Provides for establishment of regular, transparent, comprehensive, and gender-responsive labour migration policies, legislation, and structures at the national and regional levels

8. Arab Maghreb Union (UMA), Common Market for Eastern and Southern Africa (COMESA), Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), Southern African Development Community (SADC).

East African Community (EAC)	Free Movement Protocol (FMP)/Common Market Protocol (CMP)	Provides for the free movement of labour and helps to facilitate labour mobility within the subregion. Rolled out by a majority of partner states
Intergovernmental Authority on Development (IGAD)	Protocol on Free Movement of Persons in the IGAD Region	Art. 3 states that citizens of IGAD MS shall enjoy the protection of the law of the host MS guided by the fundamental principles and rights at work and equal treatment regarding work conditions. It further states that such protections under the law shall be gender-responsive and child-sensitive regarding rights to education, health and other services and calls for MS to devise instruments and mechanisms for protection of migrant workers against unfair recruitment practices.
	IGAD Regional Migration Policy Framework (IGAD-RMPF)	
	IGAD Regional Migration Action Plan (MAP) 2015-2020	
Regional Ministerial Forum on Migration (RMFM)	Communiqué and Call for Action Priorities (2020-2023)	Calls for harmonized labour migration policies throughout the region, accelerates free movement agendas and provides a platform for a dialogue intraregionally and interregionally, establishes Draft Road Map setting priority actions

8.3 Labour Migration & Migration Dynamics in Kenya and Rwanda

Like most of the region, Kenya and Rwanda are countries of origin, countries of destination and countries of transit. This means that both countries face diverse migration and mobility challenges. Mixed migration is a movement in which a number of people are travelling together, often in an irregular manner, using the same routes and means of transport, but for different reasons. People travelling as part of mixed movements have varying needs and profiles and may include asylum seekers, refugees, trafficked persons, unaccompanied/separated children, and

migrants in an irregular situation⁹. Without formalized labour mobility systems and pathways, migrant workers travel under oftentimes dangerous conditions to work in low-skilled, low-paid and most often undocumented positions. They often may be placed in situations of forced labour or may fall into the hands of human traffickers. In countries of destination, their lack of documentation (such as a work permit) makes them more vulnerable to exploitation amid host community unscrupulous actors, working as government agents and in the criminal sector.

The characteristics of migration flow in both Kenya and Rwanda are difficult to ascertain because most information comes from formalized workers in this corridor.

Rwandans in Kenya

Many Rwandans came to Kenya after the 1994 genocide, and more recently some migrants come for skills development. There are active groups of Rwandans in Kenya, such as the Rwandan professionals' network. Rwandan diaspora estimated that up to 4,000 Rwandans are living as registered family members in Kenya. Some informants noted that there are many Rwandans working in the informal sector in Kenya under the EAC Protocol, many of them employed in agriculture, restaurants or salons, or seeking business work permits. More information is needed regarding those travelling under the EAC Protocol to better understand for how long people migrate to Kenya or Rwanda, whether migration is circular, and what access to services they have in their countries of destination. Some circular migration was noted by informants but access to documents was seen as a major barrier to this kind of movement.

In 2018, 44.2% of the working age population in Rwanda was engaged in some sort of agricultural work¹⁰. However, a concerted effort by government through the Rwandan Development Board has increased other sectors such as retail and services. Employment rose in most occupational categories in the Labour Market Survey of 2018 but has seen a dramatic decrease in 2020 and 2021 because of the COVID-19 pandemic. The unemployment rate in August 2021 declined to 19.4% as compared to 23.5% in May 2021, with the unemployment rate being much higher (25.5% for 16-30 vs. 14.9% for 31 and above) during this period among the youth population. The unemployment rate also remains higher for women (22.2%) than for men (17.2%).¹¹

There is a feeling among informants that labour migration between the two countries is centred around skills development and learning as well as the mutual exchange of ideas and business. As Kenya is seen as more advanced in agribusiness, many Rwandans come here to develop their skill set. Informants felt that this ability to transfer skills within the EAC was very much facilitated through the Free Movement Protocol (FMP).

“Sometimes there is a culture of going - they know a friend in Kenya who is a driver - maybe you are a driver, but you end up working in a restaurant here – maybe you are a lady teacher. It's not like someone really plans. You know Africans, we are all relatives.” Rwandan in Kenya

“Skills transfer – within the EAC - I think you know whatever is accepted in one country more or less is accepted in another country. If you go to college here, then it will be recognized in Rwanda. Here, there are so many small colleges for tourism.... If you get into those you are accepted because of the EAC FMP.” Rwandan in Kenya

Informants noted that Rwandans are treated very well in Kenya owing to cultural ties as well as the political relationship between the two countries. Although there are many types of Rwanda

9. IOM Glossary, 2019.

10. “Labour Force Survey Trends: August 2018”. National Institute of Statistics Rwanda. Available from: <https://www.statistics.gov.rw/publication/labour-force-survey-trends-august-2018>.

11. National Institute of Statistics Rwanda. Available from: <https://www.statistics.gov.rw/publication/trends-labour-market-performance-indicator-rwanda-august-2021>.

students in Kenya, medical tourism and medical education migration from Rwanda to Kenya was particularly noted, as well as the ease of money transfers between the two countries via mobile money transfer applications. According to Safaricom in January 2022, approximately 30 million Kenyan shillings were sent from Kenya back to Rwanda compared to 40 million Kenyan shillings sent from Rwanda to Kenya via M-PESA. Informants noted that access to redress against employers is one of the major issues for outsiders in Kenya, but this even applies to Kenyans. The monetary requirements to take someone to court for not abiding by the labour law were seen as too costly. If Rwandans want to return home from Kenya, the embassy facilitates the paperwork here to allow them to travel home without passports.

“They need a visa – most of the time when they come they know someone - they become house girls, or men become drivers and they can work in restaurants – I don’t think they come knowing what they are coming to do or if they are able to get services –that’s why we have those diaspora networks where we help each other – we have a WhatsApp group where they appeal for help – people send money on M-PESA – Rwandan diaspora are very organized here.”
Rwandan living in Kenya

A representative from the Kenya High Commission working under the Ministry of Interior noted that although they have approximately 3,500 Kenyans registered with them and living in Rwanda, the true estimate of Kenyans in Rwanda was around 7,000.

Kenyans in Rwanda

Most informants cited the banking and financial sector as the primary areas of employment for Kenyans in Rwanda. A representative from the Kenyan Ministry of Interior in Rwanda noted that the ratio of Kenyan men to women in Rwanda is approximately 3:1. The duration of migration can be short, medium or long term for those labour migrants who are mainly documented and issued work permits through the Director General of Immigration and Emigration for Rwanda (DGIE). Informants noted that the majority of Kenyan workers in Rwanda were working as teachers, engineers and within the banking and factory sectors. Many informants noted the preponderance of Kenyans working as academic lecturers in universities or within the school system. This may also be as a result of the agreement that Kenya and Rwanda had after the switch from French as a national language to English. Most Kenyans moving to Rwanda were doing so under the Free Movement Protocol (FMP). Indeed, Kenyans going to Rwanda can do so under FMP, but they must apply for a work permit. Informants noted that most Kenyans going to Rwanda first obtain a contract with their employer, who then applies for the work permit. However, these are specifically given only to skilled workers who meet the requirements of the Occupations-in-Demand List (ODL). There are Kenyans in Rwanda working informally, but numbers are difficult to ascertain. Like most parts of the region, working irregularly subjects migrant workers to additional vulnerabilities and issues surrounding protection. Informal workers are employed mostly in low-skilled jobs and are more at risk of abuse from their employer. These workers also lack access to social protection benefits.

The Kenyan Government representatives in Rwanda also assist residents with return, particularly with regards to ensuring that Kenyan diaspora returning home are exempt from paying taxes at the border. The Kenyan Ministry of Interior has an Immigration Attaché based in Rwanda and other countries in the region that performs various migration duties such as processing of passports and temporary passports, clearing documents with the Ministry of Foreign Affairs (MFA) to facilitate movement and authenticating documents. The Immigration Attaché is also able to address complaints of Kenyans in Rwanda, labour issues if needed, before a legal process is necessitated.

8.4 Key Findings: Labour Migration Corridor between Kenya and Rwanda

Rather than concluding BLMAs, Rwanda and Kenya both rely on application of the FMP in addition to monitored labour migration based on supply and demand between the two countries. Both Rwanda and Kenya grant EAC MS citizens free visas on arrival. The EAC has the best application of free movement throughout the region with MS actively implementing the FMP. To this end, it was often noted among key informants that “migration in Rwanda is managed” with the existing Labour Market Information System (LMIS) data to understand supply and demand issues in Rwanda based on existing skill sets and needs. When questioned whether there were informal workers in Rwanda, most informants also noted that they had seen them at some point, and they were likely coming from the DRC, Burundi, Uganda or other neighbouring countries. Some informants, particularly those working in recruitment or employment sectors, had also noted that there were likely some Rwandans going to the Gulf countries, either formally or through recruitment firms but that there were no current agreements outlining labour migration to the Gulf countries for domestic workers.

LMIS Based Admission

The Rwanda Directorate-General of Immigration and Emigration (DGIE) is mandated to oversee and implement the Immigration Policy. It is charged with facilitating entry and residence of skilled migrants in accordance with the Rwanda’s Labour Policy and conducts this management through the Occupations in Demand list. This list is updated every year based on the information provided by the National Institute of Statistics of Rwanda and the DGIE. If someone in Rwanda applies for a work permit, it must be an occupation deemed acceptable on the list, with a specific process for appeal if employers are unable to find certain types of skills not included in the list. Informants noted that because this is only for semi-skilled or highly skilled workers, it is not easy to grasp the number of undocumented workers in country.

Rwanda Development Board and Public Employment Service Centres

The Rwanda Development Board (RDB) Skills Office is tasked specifically with attaching graduates to different institutions for professional internships, employment programmes coordination, labour market analysis, and strengthening employment services, in essence, implementing Rwanda’s Labour Mobility Policy. RDB is the only government institution working closely with the private sector using labour market analysis to apply different employment interventions.

Public Employment Service Centres (PESCs) are tasked with information dissemination regarding job opportunities, registration of job seekers, and training and skills development for job seekers. They conduct outreach programmes with employers to match registered job seekers with opportunities. These centres are not only open to Rwandans and are meant to facilitate overseas employment as well. For instance, regarding the agreement between Rwanda and Israel, all Rwandans entering this programme are recruited through PESCs and receive their pre-employment and pre-departure trainings there.

These same workers receive return and reintegration job services through the centres upon return. There is a concerted effort to develop skills transfer in the agreements that cover overseas workers so that those same workers can transform the Rwandan industries when they return, therefore, they also cover the skills gaps in Rwanda. Under the National Skills and Development Promotion Strategy returnees are registered in a database, while incentives are available for them to re-enter these sectors in Rwanda in different places throughout the country.

PESCs incur no cost for the job applicants, and those going to Israel under the existing agreement do not pay for their air tickets. Anyone may access them, but most applicants are Rwanda

nationals. In 2013, the majority of PESC users were male, but this ratio is changing towards increasing participation by women given increased sensitization and training opportunities targeting women.

Regulation of Recruitment Agencies

RDB also coordinates the operation of private employment agencies (PRAs). Some informants thought there were approximately 5 major recruitment firms and 10 firms in total in Rwanda. PRAs adhere to local Labour Law as they are established by the Government and collaborate with the Ministry of Public Services and Labour (MIFOTRA) on facilitating employment for development and skills matching. Of note is that these firms did not feel that their work was significantly impacted by the COVID-19 pandemic. PRAs worked with quite a few Kenyans on recruitment into Rwanda, noting that many Kenyans came with Financial Administration and Certified Public Accounting Certificates and felt that the numbers of Kenyans coming in these sectors were high.

8.5 Impact of the COVID-19 Pandemic on the Movement between Rwanda and Kenya

The COVID-19 pandemic is likely to be the most drastic disruptor of migration patterns worldwide in modern history. It has dramatically changed the broader context in which people travel and considerations for what a “protected” border entails. It has also magnified the importance of cross-border travel for migrant workers and the role of formal and informal intermediaries, such as smugglers, brokers and employment agencies¹². By mid-July 2020, IOM estimated that the pandemic had left nearly 3 million people stranded (likely to be an underestimate). In Sub-Saharan Africa, the restrictions on movement coupled with detention and quarantine measures have left thousands of stranded migrant workers in precarious situations.¹³

Many migrant workers have seen severe effects on their wage potential as well as the price of goods within the region. They have noted fewer jobs because of economic hardship and lack of opportunity, particularly at the height of regional lockdowns. Personal protective equipment (PPE) is barely accessible for informal migrants, and conditions along the way, especially for men and women travelling in crowded spaces, are often extremely conducive to the spread of COVID-19. Migrant workers are inherently more at risk of exposure to the disease and less likely to be tested or offered a vaccine.

As the COVID-19 pandemic has upended many migration routes, pushing migrants into irregular flow patterns, it is even more necessary to collect data on this route as it becomes more common. Often travelling in groups, migrants are more likely to be exposed to the conditions and circumstances in which COVID-19 easily spreads, which includes living in poorer and makeshift locations and/or overcrowded settings. Migrant groups are more at risk from exploitation and are often undocumented, making them less likely to have access to medical care, PPE and the COVID-19 vaccines being distributed. They are also among the most heavily impacted by the economic repercussions of the COVID-19 pandemic, particularly those working in hospitality, restaurants or other businesses.

Free movement was severely limited between Rwanda and Kenya because of restrictions and the high cost of travel due to mandatory testing. Informants noted that the EAC has not yet harmonized COVID-19 prevention protocols, often leading to high costs and confusion. Even

12. Benton, Meghan, Jeanne Batalova, Samuel Davidoff-Gore and Timo Schmidt. 2021. COVID-19 and the State of Global Mobility in 2020. Washington, D.C., and Geneva: Migration Policy Institute and International Organization for Migration.

13. Ibid

then, these protocols were mostly applicable to skilled labour, leaving unskilled workers behind. In both Rwanda and Kenya, the high cost of COVID-19 testing was and is prohibitive, presenting a major barrier to halting the spread of the disease.

9. BLMAS ASSESSMENT FINDINGS

Given that no current agreements are in motion between Rwanda and Kenya, an examination of BLMAs implementation as it currently stands will be instructive as to what barriers exist for the future implementation of BLMAs and how to best address these barriers. It is also useful to lay the groundwork through the presentation of both the BLMAs Cycle and the Migration Cycle in concurrence with one another.

9.1 BLMAs Implementation Cycle and Cycle of Migration



9.2 Key Findings

Overview of current BLMAs and other umbrella agreements in Rwanda and Kenya

Country	BLMAs	State of Implementation
Kenya	BLAs with Qatar, KSA, UAE, Rwanda for sending teachers, and new health care worker BLMA with the UK MoUs with Israel	BLAs with GCC countries are currently in implementation with workers travelling abroad, even during COVID-19. There are insufficient mechanisms to ensure adherence to migrant worker protection measures and correct implementation of provisions within the BLAs. The new agreement with the UK was facilitated by the MoH and MoL and has extensive provisions for migrant worker protection.

Rwanda	MoUs with Israel Qatar UAE	Israel MoU is a bilateral initiative between the Government of Rwanda and State of Israel that promotes exchange of skills in agricultural and IT sector development In finalization stage Signed but not implemented. This MoU is aimed at consolidating cooperation around recruitment and employment of workers by private sector firms in the UAE and provides for a mechanism that will recruit Rwandan workers to the UAE private sector.
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Drafting and Implementation

According to key informants, Rwanda has not yet sent migrant workers abroad under the general MoUs. The agreement between the Rwandan Government and the UAE was signed in 2019 but due to COVID-19 has not yet been implemented. This agreement is for formalized skill sets as Rwanda currently does not allow domestic workers to go to the Gulf countries; therefore, all migrant workers travelling under these agreements will be graduates. The implementation framework is currently in process of development. Additionally, there are other agreements in the pipeline to be completed soon, for example with Qatar and with Canadian food processing companies.

“I think the main driving force behind no domestic workers is because of the information available on how domestic workers are mistreated – it’s because they are working in households which are not governed by national labour laws. One finds that here we have many training opportunities for people who may continue further studies, then after attending some of the facilities they start small jobs. One finds that in most cases unemployment is high among undergraduates from different institutions like TVET or universities, they are educated after reaching there and working in a formal enterprise. It’s easy for them to acquire skills that are helpful in the future to bring back here.” Representative from Rwanda Development Board

The Southern Corridor BLMA's Assessment findings showed that most of the issues arise at the time when the “rubber meets the road”, i.e., when bilateral agreements are being implemented and monitored. This absolutely the case for Kenya but remains to be determined in Rwanda. Almost always, in the cases of African countries, there has been unequal negotiating power between CoOs and CoDs, resulting in poor terms for sending countries and little recourse for governments to ensure adherence to the protocol that was intended to protect their citizens abroad. In some cases, countries have accepted substandard conditions for their workers to send willing migrant workers abroad. This has resulted in extremely abusive and exploitative conditions experienced by African migrant workers, most often in the Middle East and Europe. Some of the conditions mentioned by CoOs’ officials were physical and sexual abuse, garnishing or confiscation of wages, confiscation of documents, unlawful dismissal, movement to another employer without the employee’s consent and refusal of communications. This has led to some migrant workers or members of their families taking to social media, and in the instance of Kenya, a complete moratorium on sending domestic workers to the Gulf countries in 2014.

In previous corridor assessments of countries with established and implemented BLMAs, informants identified a lack of a clear, coordinated approach to how these agreements are being negotiated.

One of the primary areas of potential increase in BLMAs implementation will be transparency both in how these agreements are drafted and what is written in them. Most informants were not aware of the contents of BLMAs. Now, this transparency does not extend to the BLMAs design and negotiation process. Greater communication between agencies and stakeholders, including those coming from a migrant worker rights perspective, will be essential during the implementation phase of newly signed or revised BLMAs.

Transparency is one of the main challenges identified in examining how current BLMAs are being implemented throughout the East and Horn of Africa region. Based on interviews from the Southern Corridor Assessment, many stakeholders felt their organizations were purposely left on the outskirts of negotiations, perhaps intentionally to facilitate the forward movement and quick signing of the agreements with the idea that organizations with migrant worker protection interests at the forefront may slow down the signing process.

The Rwandan National Labour Mobility Policy of 2019 outlines guidelines for labour migration governance, protection and empowerment of migrant workers and brings together policies and action plans that intend to link labour migration with economic development. The strategic areas of focus for the Labour Mobility Policy are:

- Promoting Governance of Labour Migration
- Protection and Empowerment of Migrant Workers
- Harnessing Labour Migration for Development
- Comprehensive Migration Data Management System
- Developing and Maintaining Skills

Rwanda seeks a more inclusive application of this policy, considering the importance of multistakeholder involvement. While this multistakeholder involvement is outlined in the National Labour Mobility Policy, implementation on the ground has proven more complex. PRAs in Rwanda stated that they did not know much about BLMAs and were eager for more involvement. This lack of non-governmental involvement was also acknowledged by trade union representatives.

MIFOTRA, MINAFET and later RDB could bring in actors well versed in the human rights-based approach during negotiation to ensure this approach is included and given an appropriate monitoring mechanism. These organizations are meant to act as a sort of watchdog to ensure migrant workers' rights and can do so more effectively and together with government counterparts if they have a seat at the table from the very beginning.

Since some countries often felt that other regional partners were occasionally undercutting each other in terms of agreeing to lower wage standards or protection requirements, collaboration between MS and discussions around negotiating as REC blocs may be useful in the future for conferring additional negotiation parity to all MSs within RECs that will have benefits for all CoOs and thus the migrant workers themselves.

An area that warrants further discussion with MS is the preferred mechanisms for formalizing migration pathways. Kenya representatives discussed a movement towards additional BLMAs, and the desire to establish them with each CoD. The recent UK/Health worker BLMA may serve as a potential model for the establishment of near-future BLMAs. While the agreement is general, the guidelines are specific. The Guidelines included in this agreement are specific with regard to migrant worker protection as well as pre-departure training and certification and discusses skills recognition. There is also a specific provision with regards to dissemination of the information in the BLMA and Guidelines but it remains to be seen how this is applied in the day-to-day context.

The BLMAs Rapid Assessment tool will be more useful in future implementation, as many of the questions in the current tool would not apply to many stakeholders given the status of BLMAs implementation. There is great promise that this tool can serve as a guideline for future agreements.

Additionally, there are several entities working on the completion of BLMAs resources that countries may use as reference¹⁴. Perhaps most valuable, however, is the experience of other countries in the region. There have been several initiatives to foster enhanced collaboration between REC MSs that serve as benchmarking exercises where MSs with relatively little experience in the drafting, negotiating and implementing of BLMAs are able to learn from countries with more experience.

While MINAFET and MIFOTRA are responsible for the drafting and negotiating these agreements, RDB oversees making sure that Rwandans travelling under these agreements meet the standard requirements. RDB is also responsible for information dissemination through PESCAs. These PESCAs will complete the shortlisting and interviewing of candidates in addition to selection. They are also meant to provide information on what these graduates should expect in destination countries, what the nature of the working conditions will be, cultural expectations, the nature of contracts, etc. PESCAs are also meant to train them in soft skills and provide refresher courses that are of benefit once in their country of destination. All sessions under pre-departure training will be delivered within these centres because they have enough facilities to provide accurate information that could be of benefit to potential migrants.

“These BLAs are very crucial when it comes to protection of migrant workers - almost every provision, we went through it with different institutions because we have the Ministry of Justice and Ministry of Labour – Ministry of Foreign Affairs – almost every provision, we went through and we made sure the provisions that were there and remained there were very key to protection of Rwandans once they meet abroad – starting with how they will collaborate with MoL in the destination country – how to settle disputes that may arise, and also the responsibility of the destination country – what we’ll be doing to make sure that Rwandans are safe once they reach there – setting up a joint committee that is composed of people from the Ministry in charge of labour in the UAE and people from the Ministry of Labour and Foreign Affairs. The committee will meet annually to address any challenges that can be settled through the joint committee. I think when you look at it, most of the provisions are there that are necessary to make sure that Rwandans in destination countries are well protected and that issues are highlighted when it comes to disputes between employee and employer and how it can be settled.” RDB Representative

14. This includes the newly published United Nations Network on Migration (UNNM) BLMAs Guidelines. Available from: https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/resources_files/blma_guidance_final.pdf.

The RDB representative also noted that there is a plan under the UAE agreement for Arabic translation of contract as well as a proposal for a Labour Attaché to be placed in the UAE to follow up with migrant worker protection measures. In Kenya, coordination is primarily between representative parties from the Ministry for Foreign Affairs and the Ministry of Labour. The National Employment Agency plays a significant role as well, and recently were instrumental in establishing the guidelines for the BLA signed between Kenya and the UK government regarding healthcare workers. If stakeholders are to be consulted on the components of a new agreement, they are often done so once the first draft has already been finalized, with little room for additions.

This study seeks to make the case for the establishment and implementation of BLMAs to formalize existing labour migration pathways between Rwanda and Kenya that will benefit both the country of origin as well as the country of destination. Furthermore, initial discussions around the establishment of BLMAs either within the region or outside of the region will assist Rwanda in establishing formalized pathways for migrant workers seeking economic empowerment abroad in the Gulf countries that have expressed interest in signing BLMAs with the Government of Rwanda.

Emerging Trends

For Rwanda and Kenya, the political feasibility of establishing BLMAs between the two states is unlikely given the freedom of movement between the two countries under EAC CMP/FMP. These pathways are limited, however, to mainly skilled workers and do not address unskilled labourers that still move and work in CoDs.

All areas for formalization of migrant worker pathways should be examined, including the application of REC FMP for low-skilled workers. **BLMAs are not intended to create new labour migration pathways, but rather to assist in formalizing already travelled corridors to meet the needs of both countries of origin and countries of destination as well as to enhance the protection and access to services for migrant workers and their families.**

Stakeholders in all EHoA countries are very aware of the potential unequal negotiating power they may bring to the table. It is necessary to ensure additional BLMAs procedural clarity and capacity for frontline ministries to set up BLMAs infrastructure for potential future agreements and labour migration governance in future. There is considerable interest in establishing a common approach within the region in terms of negotiating BLMAs and increasing the overall bargaining power of countries of origin.

9.3 Why should countries enter into inter-state cooperation on labour mobility?

Country of Origin	Country of Destination
To protect rights of its nationals that work abroad	To regulate migration flows
To encourage skills development in nationals	To fill in market needs for specific skills or sectors
To increase the flow of remittances	To gain cheaper labour
To relieve tensions from population pressures	To counterbalance an aging population
To manage labour market surpluses	To gain assistance in screening potential migrants
To provide employment opportunities for nationals	To make a symbolic goodwill gesture

9.4 Key Areas of Rapid Assessment Recommendations for Rwanda and Kenya

Based on the rapid assessment utilizing the IOM/ILO BLMAs Assessment Tool, there are 12 policy recommendations that have been identified. Some of these recommendations may fall outside the scope of the initial rapid assessment but seek to strengthen the conditions that will lead to more comprehensive labour migration governance in and between Kenya and Rwanda. Recommendations are mainly applicable to both countries but specified per country when necessary.

Recommendations:

1. Diversify stakeholders involved in establishment of new BLMAs and the review of the existing drafts. Extend the participation to private enterprise and NGOs with a human-rights-based approach. Ensure inclusion of these stakeholders at all parts of the BLMAs process.
2. Identify gaps in existing BLMAs in matters of dispute resolution, social benefits, etc., and ensure there is a formal review process to address these gaps in both existing BLMAs as well as new initiatives.
3. Arrange for benchmarking discussions with REC MSs to better understand best practices and lessons learnt in labour migration governance. Conduct collaborative meetings between MS engaged with the same Countries of Destination prior to signing new agreements in order to leverage collectively.

4. Identify other areas where the scope of labour migration governance may broaden to include further migrant worker protection, for example, inclusion of migrant worker considerations into strategies meant to combat human trafficking and smuggling and to reduce the effects of transnational organized crime.
5. Use the RMFM Road Map to transform it into policy decisions and specific examples of on-the-ground implementation of methods to regularize migration. An example of concrete policies is the establishment of One-Stop border posts.
6. Use labour market assessments to identify skill sets or cadres where the Free Movement Protocol may be more easily applied to lower skill set requirements to formalize labour migration pathways among these workers.
7. Enhance the capacity of private recruitment agencies and expand the capacity of Public Employment Service Centres and give them the mandate to oversee more overseas employment. (Rwanda)
8. Work with REC Partner States to identify areas of consular support for countries where Rwanda does not have Immigration or Labour Attachés or consulates. (Rwanda)
9. Build capacity within LMIS systems and seek a comprehensive and integrated LMIS, including for Rwandans & Kenyans living abroad.
10. MINAFET or Ministry of Foreign Affairs should collaborate with the Ministry of Health to ensure that migrant workers are considered in strategies for health services, pandemic preparedness and COVID-19 response.
11. Increase collaboration with DGIE or Ministry of Interior and increase capacity of local law enforcement officials and other facilitators of mobility such as immigration and border officials and social service providers to ensure legal protection of migrants is adhered to.

10. ANNEX A. RECS AND LABOUR MIGRATION POLICY INITIATIVES

The African Union recognizes eight different Regional Economic Communities (RECs):

- Arab Maghreb Union (UMA)
- Common Market for Eastern and Southern Africa (COMESA)
- Community of Sahel–Saharan States (CEN–SAD)
- East African Community (EAC)¹⁵
- Economic Community of Central African States (ECCAS)
- Economic Community of West African States (ECOWAS)
- Intergovernmental Authority on Development (IGAD)
- Southern African Development Community (SADC).

The EAC is viewed as the most integrated regional economic bloc based on the African Regional Integration Index (ARII) 2019 that measures REC integration based on five dimensions:

- Free movement of people
- Infrastructure integration
- Macroeconomic integration
- Productive integration
- Trade integration

The EAC scored particularly high on the free movement of people indicator – the highest on the continent. This is attributed to the fact that EAC citizens can move freely within the region with valid travel documents. Additionally, very few EAC Partner States require a visa before arrival for non-citizens.¹⁶

The Global Compact for Safe, Orderly, and Regular Migration (GCM) lays the groundwork for REC integration as well as partnership between Member States and extracontinental partners such as other countries or companies. Under the auspices of the United Nations, the GCM covers all dimensions of international migration¹⁷ in a holistic and comprehensive manner. The non-binding document respects States' sovereign right to determine who enters and stays in their territory while demonstrating a global commitment to international cooperation on migration. In 2018, over 160 world governments unanimously adopted the historic GCM framework, which

15. The EAC is comprised of 6 states: the Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda, with its headquarters in Arusha, Tanzania.

16. EAC Takes the Lead as the Most Integrated Block in Africa. <https://www.eac.int/press-releases/1764-eac-takes-the-lead-as-the-most-integrated-bloc-in-africa>.

17. IOM. Global Compact for Safe, Orderly, and Regular Migration. <https://www.iom.int/global-compact-migration>.

is consistent with Target 10.7 of the 2030 Agenda for Sustainable Development¹⁸. Furthermore,³¹ migration is a cross-cutting theme across all Sustainable Development Goals, with at least ten out of 17 goals containing targets and indicators that are directly relevant to migration or mobility.

The GCM Framework is designed to support international cooperation on the governance of international migration; provide a comprehensive menu of options for States from which they can select policy options to address pressing issues around international migration; and to give States space and flexibility to pursue implementation based on their own migration realities and capacities. As a follow up to the GCM, the International Migration Review Forum (IMRF) is set to meet again in 2022, presenting an opportunity for more action-oriented planning towards implementation. The IMRF will (1) provide an opportunity for Member States and other relevant stakeholders to discuss and share progress on the implementation of all aspects of the GCM; (2) provide a space for a policy debate focusing on challenges in the implementation of the GCM; and (3) result in a Progress Declaration.

African Union

African Union (AU) Frameworks that BLMAs may fall under include the African Union Agenda 2063, the AU Revised Migration Policy Framework, and the AU Free Movement of Persons Protocol¹⁹. A key concern requiring attention by the AU and a common approach across the AU membership is promoting rights-based bilateral labour migration arrangements (BLMAs) that ensure protection and decent work for all Africans. The AU wished to develop guidelines that will assist the Member States and the Races in concluding appropriate BLMAs.

The Draft Guidelines on Developing Bilateral Labour Agreements were validated by AU Member States, RECs and Workers and Employers Organizations on 22 July 2021. ILO is currently working on the translation of the Guidelines into AU languages in preparation for the AU Specialized Technical Committee on Social Development, Labour and Employment for approval in October or November 2022.

The Revised Migration Policy Framework for Africa (Revised MPFA) was endorsed by the AU Member States and RECs in 2016. This provided for the establishment of regular, transparent, comprehensive and gender-responsive labour migration policies, legislation and structures at the national and regional levels aimed at achieving significant benefits for countries of origin and destination²⁰.

EAC Migration Governance Framework

The EAC Free Movement Protocol may serve as a model for other RECs in Africa. The East African Common Market Protocol (CMP), which provides for the free movement of labour, has helped to facilitate labour mobility within the subregion. From the Situational Analysis for Labour Migration in the East African Community (2021):

“The free movement of persons and labour was initially a founding principle of the East African High Commission in 1967 and was reaffirmed in article 104 of the EAC Treaty in 1999, which makes express provision for the free movement of persons, labour, services, and the right of

18. Sustainable Development Goal 10.7 is to facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies.

19. As of the writing of this report, 33 out of 55 countries have signed the FMP and 4 have ratified it.

20. Draft Road Map for the Implementation of the RMFM 2020.

establishment and residence²¹. In 1999, the EAC also launched its community passport which permits nationals of EAC Partner States to travel within the EAC and to a multi-stay of six months validity in any of the Partner States²². In 2017, the electronic East African passport was introduced to replace national passports of the Partner States and further boost the free movement of persons in the region²³. It has been rolled out by the majority of Partner States²⁴. The timeframes for the phasing out of old passports are unclear and are likely to vary in each Partner State — for example, in Rwanda, the electronic passport will replace old passports by June 2021²⁵.”

“Allied to the free movement of persons and labour framework within the EAC, Partner States have agreed to harmonize labour and employment legislation and to progressively achieve the right of establishment for EAC nationals through the development of complementary policies²⁶. These include the recognition of educational attainments, the harmonization of social security benefits, the regulation of the movement of family members, and the creation of an East African central for productivity and employment promotion²⁷. The EAC has also enacted the East African Community One-Stop Border Posts Act (OSBP Act)²⁸, with the stated objective of enhancing “trade through the efficient movement of goods, persons, and services” within the EAC. Separately, the movement of refugees within the EAC²⁹ is governed by the East African Community Common Market (Free Movement of Persons) Regulations³⁰.”

Intergovernmental Authority on Development

IGAD, or the Intergovernmental Authority on Development, has also recently endorsed the Protocol on Free Movement of Persons in the IGAD Region. The REC has formulated two migration policy frameworks, both of which aim to realize the development potential of migration. These are the IGAD Regional Migration Policy Framework (IGAD-RMPF), adopted in 2012, and the IGAD Regional Migration Action Plan (MAP) 2015-2020 formulated in 2013. The Protocol on Free Movement of Persons in the IGAD region adopted by the 72nd Extraordinary Session of the IGAD Council of Ministers of Foreign Affairs of IGAD Members States, under Article 3 General Principles, states that citizens of IGAD MS shall enjoy the protection of the law of the host Member State guided by the fundamental principles and rights at work and equal treatment regarding working conditions. It further states that such protection under the law shall be gender-responsive and child-sensitive regarding rights to education, health, and other services. It calls for Member States and IGAD to devise instruments and mechanisms for the protection of migrant workers against unfair recruitment practices including by intermediary bodies such as private recruitment agencies and public employment services.

Regional Ministerial Forum on Migration (RMFM)

The Regional Ministerial Forum on Migration brings together Member State Ministers from Kenya, Uganda, the Republic of South Sudan, the Republic of the Sudan, Ethiopia, the Federal Republic of Somalia, Djibouti, the Republic of Rwanda and the Republic of Burundi working

21. EC Regional Migration Report above n 69 at p. 33 and article 104 of the EAC Treaty above n 71.

22. EC Regional Migration Report id at p. 33.

23. EAC, EAC to start issuing EA e-Passports January 2018, (7 April 2017), accessible at: <https://www.eac.int/press-releases/148-immigration-and-labour/754-eac-to-start-issuing-ea-epassport-january-2018>.

24. The East African, Rwanda to phase out old passports in June 2021, (14 August 2020,), accessible at: <https://www.theeastafrican.co.ke/tea/news/east-africa/rwanda-to-replace-passports-with-east-african-e-permits-1919136>.

25. Ibid

26. SIHMA Report above n 7 at p. 34.

27. Ibid

28. East African Community One-Stop Border Posts Act (2016) (OSBPs Act).

29. Ibid, Section 3.

30. East African Community Common Market (Free Movement of Persons) Regulations (2009).

jointly with other high-level government representatives to harmonize labour migration policies in the region³¹. It was established to accelerate the free movement agendas and to provide a platform for dialogue intraregionally and interregionally, particularly with the Gulf States (as well as EU and others countries in the long term). Participating States signed a Communiqué and a Call for Action Priorities (2020-2023), with a Draft Road Map setting priority action for harmonization of labour migration policies for safe, orderly and humane labour migration.

The RMFM is a platform to elaborate common approaches and build on good practices generated by such countries as Kenya, Uganda, Ethiopia and Rwanda. These countries have made significant efforts towards strengthening labour migration policies, regulating private recruitment agencies, negotiating BLMAs and establishing labour market information systems. They have also strengthened education and TVET systems used for skilling and reskilling, to address the needs of both the labour market and their migrant workforce.

“The RMFM calls on countries to cooperate towards establishing a common platform for engagement between countries of origin, transit and destination on labour migration, as well as to enhance inter-State, intra- and interregional cooperation for strengthening the protection of the labour, social and human rights of African migrant workers in destination countries,” stated Mohammed Abdiker, the IOM’s Regional Director for the East and Horn of Africa³².

The six objectives of the RMFM for 2020-2023 include³³:

1. Support Member States and RECs to develop, adopt and implement bilateral and multilateral labour migration agreements (BLMAs).
2. Promote common African policy responses to implement existing legal and policy frameworks; formulate new policy responses where protection gaps have been identified and involve multilateral stakeholders and development partners to protect the human, social, economic, and labour rights of African migrant workers in countries of origin, countries of transit and countries of destination.
3. Establish or reinforce existing labour market information systems within Africa to identify labour market needs for migrant workers and strengthen the capacity of labour market institutions on labour migration.
4. Introduce harmonized standards and tools for data collection, analysis and monitoring on international labour migration in Africa to encourage quantitative and qualitative research on labour migration and its intercorrelated issues and facilitate evidence-based labour migration policymaking.
5. Governments to enhance inter-State; intra- and interregional cooperation for implementation of the AUC/IOM/ILO Joint Labour Migration Programme.
6. Governments to support the overall strengthening of social security and welfare institutions in Member States to extend social security to migrant workers, promoting the mainstreaming of gender and disability issues, induced mental health and psychosocial issues through access and portability regimes compatible with international standards and good practice.

31. IOM. Regional Ministerial Forum on Migration. Available from: <https://www.iom.int/regional-ministerial-forum-migration-east-and-horn-africa-rmfm>.

32. IOM, 2020. Ministers from East and Horn of Africa Pledge to Harmonize Labour Migration Laws to Protect Migrant Workers’ Rights. <https://reliefweb.int/report/world/ministers-east-and-horn-africa-pledge-harmonize-labour-migration-laws-protect-migrant>

33. <https://www.iom.int/regional-ministerial-forum-migration-east-and-horn-africa-rmfm>.



