Free Movement of Persons and Transhumance in the IGAD Region

KENYA

Country report

► **Labour Market Assessment**

with focus on migrant workers from the IGAD region

Contents

List of figures

List of tables

▶ Abbreviations and acronyms

COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
FAO	Food and Agriculture Organization of the United Nations
GDP	gross domestic product
HDI	Human Development Index
ICLS	International Conference of Labour Statisticians
ICT	information and communication technologies
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
IMIS	Integrated Multi-Sectoral Management Information System
IOM	International Organization for Migration
KIHBS	Kenya Integrated Household Budget Survey
KLMIS	Kenya Labour Market Information System
KNBS	Kenya National Bureau of Statistics
MOU	memorandum of understanding
MTP	Medium Term Plan
NCM	National Coordination Mechanism
NEA	National Employment Authority
SME	small- and medium-sized enterprises
SPS	Social Protection Secretariat
TVET	technical and vocational education and training
UNCTAD	UN Conference on Trade and Development
UNDESA	UN Department of Economic and Social Affairs
UNDP	UN Development Programme
UNHCR	UN High Commissioner for Refugees

Acknowledgements

▶ Foreword

The ILO in close collaboration with the Intergovernmental Authority on Development (IGAD) Secretariat has produced this report titled ***Labour Market Assessment with a Focus on Migrant Workers from the IGAD Region: Kenya Country Report*** as part of the project on Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility financed by the European Union. The report forms part of the knowledge-generation component of the project, and provides an evidence base for improving labour migration and mobility governance in the IGAD region.

This Kenya country report sheds light on the overall economic, labour, employment and migration dynamics in the country. The report differs from typical labour market assessments, as it focuses on the participation of migrant workers from IGAD Member States in the labour market in Kenya. It draws on available secondary data and primary information collected as part of the study, including through quantitative interviews, focus group discussions and key informant interviews with migrant workers, government officials, employers' organizations, workers' organizations, international organizations, non-government organizations and other relevant stakeholders.

The report examines labour force characteristics, current and future demand for skills, and job creation patterns, and identifies sectors that have high potential for job creation for nationals and migrants in an integrated regional labour market. It also looks at labour market efficiency and functionality by reviewing institutional arrangements and processes, including policies, legislation, labour market information systems and employment services, among other things. The report then identifies key challenges and opportunities related to improving labour market and labour migration governance and to supporting employment and job promotion for nationals and migrants in the IGAD region. At the end, the report proposes a number of key strategic recommendations to improve access to the labour market in Kenya by migrant workers from IGAD Members and to improve labour migration governance in the region. We advise you consult, in addition to this Kenya country report, the regional report covering an analysis of the IGAD labour market and its inclusiveness of migrant workers from Member States.

We believe that this series of labour market assessments focused on migrant workers will be instrumental towards the implementation of the road map of the IGAD Protocol on Free Movement of Persons. Understanding the challenges migrant workers face and implementing the recommendations proposed in these reports will also pave the way for increased opportunities for regular labour mobility and regional integration.

H.E. Dr. Workneh Gebeyehu

Executive Secretary, Inter Government Authority on Development (IGAD)

Alexio Musindo

Director, ILO Country Office for Ethiopia, Djibouti, Somalia, South Sudan, Sudan and Special Representative for AU and UNECA

▶ Executive summary

The ILO is implementing the European Union Emergency Trust Fund-financed project entitled Free Movement of Persons and Transhumance in the Intergovernmental Authority on Development (IGAD) Region: Improving Opportunities for Regular Labour Mobility. The overall objective of the project is to improve opportunities for regulated labour mobility and decent work within the IGAD Member States through the development of models of intervention. In the long-term, the project is expected to extend decent work opportunities to current and potential migrants within the region, as well as contribute to regional integration, strengthen links between economic growth, climate change and job creation; and enhance the social and economic integration of migrants. [1]

This report is an analysis of Kenya's labour market with a focus on migrant workers from IGAD Member States. The report is one of a series undertaken in IGAD Member States (Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda) to understand the overall economic, labour, employment and migration dynamics in these countries. It focuses on migration-prone areas, particularly places of origin, transit and destination. This analysis falls under a knowledge-building component of the ILO project, which seeks to deepen understanding of migration and labour market dynamics in the region.

The analysis presented in this report looks at labour force characteristics, job creation patterns, and challenges and opportunities for improved labour market governance to support employment and job promotion. It considers labour market information, employment services and migrant workers, as well as labour market efficiency in the wider socio-economic context. Primary data was collected to help inform the analysis, consisting of 418 quantitative interviews with migrant workers from IGAD Member States; 40 key informant interviews with government officials, employers' organizations, workers' organizations, international organizations, non-government organizations and other relevant stakeholders; and eight focus group discussions with Kenyan communities and migrant workers from IGAD Member States. Data collection took place between March and May 2019 in Nairobi, Garissa, Kisumu and Bungoma. The report concludes with recommendations at the strategy, policy and intervention levels, respective to each of the social partners.

▶ Overview of migration and labour market trends

Kenya is a net outward migration country, driven by Kenyans looking for better job opportunities elsewhere, but it is also a substantial recipient of refugees. According to the United Nations High Commissioner for Refugees (2019), in early 2019, Kenya was hosting an estimated 475,412 refugees and asylum-seekers. Kenya's refugees are mainly from Somalia, Ethiopia and Southern Sudan, whereas the asylum-seekers are mainly from eastern areas of the Democratic Republic of the Congo, Burundi and Ethiopia.

Remittances received in Kenya are a central part of its GDP. Remittances are a top source of foreign exchange, ahead of tea exports and tourist receipts, and growing quickly. World Bank estimates suggest that Kenyans living abroad contributed about US$2.104 billion to Kenya's economy in 2017 (World Bank 2017), and estimates for 2019 indicate monthly remittances inflows of 23 billion Kenyan shillings (about US$228 million per month, or around US$2.74 billion for the whole year), as per the Central Bank of Kenya.

Kenya has a labour market characterized by a very high incidence of informality. Over the last decade, a fairly well-regulated formal sector with high levels of wage and salaried employment has grown, but most of the labour market has remained engaged in informal activities with lower levels of wage and salaried employment. Working conditions in the formal sector are generally regulated, but the sector has generated relatively few new jobs during the last decade. However, both sectors are closely interlinked, with many informal jobs being also created in the formal sector. These jobs are unlikely to be covered by any form of labour legislation and protection, even if, in theory, labour

---

laws in Kenya apply to all workers and workplaces. Most new jobs in Kenya – as many as 85 per cent in 2015, according to a recent survey – are created in the informal economy, with little job security and labour protection (KNBS 2016).

The private sector is dominated by micro and small enterprises. According to Kenya National Bureau of Statistics Economic Survey 2020, there are 18.1 million employees in the Kenya labour market, out of which 15.1 million (83 per cent) are in the informal sector. The formal sector employs 3.1 million people, out of whom 2.9 million are paid employees and 162,700 are contributing family workers. The total number of paid employees in the private sector was 2.1 million (66.7 per cent), while the public sector employed 865,200 (29.5 per cent). Part of the challenge is that the private sector responsible for job creation is dominated by micro- and small-scale enterprises that operate informally due to the challenges related to conducting business in a more formal manner.

▶ Characteristics of migrant workers from IGAD region

The educational composition of migrant workers interviewed as part of this research was notably lower than the average for the Kenyan labour force. A total of 72 per cent of migrant worker respondents had attained at most a primary level of education, which is higher than the national average (54 per cent). However, the share of workers with a tertiary level of education was slightly higher among migrant worker respondents than the Kenyan average (6.7 per cent versus 4 per cent). The gap is highest at the secondary level of education, which only 22 per cent of the migrant worker sample had attained, compared to 40 per cent of the Kenyan labour force.

While the majority of migrant workers in the sample were in medium-skilled occupations (such as service and sales workers), those with regular migration status are more likely to be engaged in higher-skilled occupations (such as technicians and associate professionals) than other groups analysed. Long-term migrant workers with regular migration status have the greatest likelihood of being in higher-skilled occupations (18 per cent), followed by short-term migrant workers, at 11 per cent. The low proportion of migrant workers with irregular migration status in high-skilled occupations suggests that irregularity is an impediment to more productive jobs, even if most of the jobs available are informal (see next point).

Formality and informality are closely interlinked. The vast majority of migrant workers interviewed (90 per cent) were in informal employment, similar to the Kenyan population as a whole. A slightly lower share (67 per cent) were working for informal enterprises. A number of those in informal employment were also working for formal enterprises (that is, registered firms, compliant with tax and other regulations – see Appendix IV for full definition). Short-term migrant workers were more likely to be in formal enterprises (56 per cent), than long-term migrant workers. Long-term migrant workers with regular migration status were also more likely to be working for informal enterprises or to be running businesses, which the data showed to all be informal.

Employers reportedly opt not to comply with labour market regulation and legislation, favouring informal employment. The findings from the primary data suggest that employers may opt to lower their labour costs by avoiding formal social security contributions and not paying minimum wages, forcing employees in informal employment arrangements.

▶ Job creation and migrant workers

With most jobs in Kenya being informal, productive employment and job creation are insufficiently embedded in Kenya's development agenda, Vision 2030. Vision 2030 aims to transform Kenya into a newly industrialized, middle-income country providing a high quality of life to all its citizens in a clean and secure environment by 2030. Unemployment is generally perceived as the main labour market challenge in Kenya. However, a more pressing issue is the lack of sufficient employment opportunities that are decent and productive, especially in rural areas of the country.

While there has been progress and government attention has been paid to human capital development and private sector development, weak labour market governance in terms of effective evidence-based policies and tools to inform and monitor the labour market are a major hindrance to quality employment and job growth. In spite of recent progress, such as the

establishment of the Kenya Labour Market Information System, labour market governance in Kenya is characterized by multiple challenges, including:

► the spread of labour statistics across multiple sources;

► lack of general labour market intelligence that goes beyond the employment/unemployment dichotomy;

► lack of employable skills especially among the youth;

► skills mismatch due to weak linkages between industry and training institutions;

► lack of a harmonized skills development framework;

► frequent changes in technology leading to respective changes in industry needs; and

► unclear and changing institutional mandates, to highlight just a few.

Labour migration is another labour market component that is insufficiently addressed by both labour market governance and the wider labour migration governance, although a migration policy is currently at the draft level. Meanwhile, public employment services are limited and to some degree insufficient to the needs of the labour market, for both Kenyans and migrant workers. Public employment services tend to focus on the coordination of private employment agencies and the externalization of labour abroad. Labour migration is a growing policy concern in Kenya, as evidenced by the current development of a migration policy. However, effective governance of migrant workers requires a comprehensive understanding of – and well-informed evidence base around – migrant workers, which is currently lacking. The information and statistics on migrant workers currently available are insufficient to inform relevant and evidence-based measures, despite the potential and perceived impacts of migrant workers to the labour market and the economy.

Strategic recommendation 1: Improve labour market information around migrant workers.

The most overarching shortfall is the lack of comprehensive, up-to-date and reliable information on migrant workers and their role in the labour market that can be mainstreamed throughout government policies. Existing policies and programmes are largely based on insufficient and/or inappropriate labour statistics, including ad-hoc analyses that fail to go sufficiently beyond the employment/unemployment dichotomy and that are not available for specific sectors, regions and districts. The labour statistics that are collected are duplicative and are only partially in line with the recommended statistical standards. Overall, the labour market statistics currently collected are insufficient to enable monitoring and analysis of situations and trends in the labour market to the level of detail needed to inform policies. Accordingly, recommended points of action include the following:

► **POLICY:** Strengthen the evidence-base for labour market governance with a new labour statistics framework. This entails the design of a national labour statistics framework that collects key labour market indicators on a regular basis, in line with ICLS standards.

► **POLICY:** Pay special attention in the labour statistics framework to capture key information on migrant workers.

► **POLICY:** Provide technical expert advice and support to the improvement of labour market information and analysis, particularly around migrant worker data.

► **INTERVENTION:** Implement another labour force survey and ensure a labour migration module is incorporated into this.

► **POLICY:** Feature enhanced data collection and analysis on migrant workers in national development planning and make it more explicit as part of wider strategies to strengthen labour market information.

▶ **INTERVENTION:** Encourage, facilitate, and disseminate third party research using the labour market information, including by sharing the microdata.

Strategic recommendation 2: **Migrant workers need to be better integrated into coherent employment and labour market policies.**

Kenya currently hosts around a quarter of the official migrant stock of IGAD migrants, which is likely much higher if irregular migrants are taken into account. All these migrants have to make a living, and many participate in Kenya's labour market. The analysis in this report finds that most migrant workers in Kenya work in the informal economy, which is no different from the Kenyan population. However, there are no targeted interventions to integrate migrant workers into Kenya's labour market. Contributing factors include weak employment and labour governance mechanisms, which ultimately augment labour migration and labour protection violations.

Maximizing the positive impacts that the various types of migrant workers have on Kenya's labour market will require appropriate and comprehensive information on the nature of migrant workers, existing labour market dynamics, and effective and efficient governance mechanisms. Against this backdrop, labour migration needs to be well governed to be beneficial for Kenya's development in the long run (that is, through flexible labour policies that target skill gaps and labour shortages). Accordingly, points of action include the following:.

▶ **POLICY:** Embed migrant workers issues into the national development agenda.

▶ **POLICY:** Increase the quality of the labour market integration of migrant workers.

▶ **INTERVENTION:** Conduct timely and up-to-date labour market analysis with a focus on migrant workers.

▶ **INTERVENTION:** Develop guidelines on employment of expatriates and monitor the understudy arrangements.

▶ **INTERVENTION:** Establish a one-stop-shop offering all labour migration services under one integrated system.

Strategic recommendation 3: **Enhance coordination of labour migration management.**

Labour migration in Kenya is handled by various institutions. These institutions are faced with challenges that hinder their effectiveness in management of labour migration. The challenges include:

▶ lack adequate human resources and financial, technological and infrastructural capacities to effectively implement labour migration programmes, both locally and abroad;

▶ inadequate administrative and institutional capacity for effective migration management;

▶ inadequate funding; and

▶ poor linkages and lack of synergy.

The fragmented and uncoordinated administration of labour migration management by various government agencies inhibits effective protection of Kenyans working or seeking employment abroad. Accordingly, recommended points of action include the following:

▶ **POLICY:** Strengthen the capacity of institutions involved in labour migration, including the National Coordination Mechanism on Migration.

▶ **INTERVENTION:** Strengthen synergies between the institutions dealing with labour migration in the country.

▶ **INTERVENTION:** Strengthen the human, financial, technological and infrastructural capacities of institutions for effective execution of their mandate.

Chapter 1

▶ **Introduction**

The Intergovernmental Authority on Development (IGAD) region is characterized by a range of migratory movements driven by political, economic and environmental factors, and encompassing different categories of migrants, including economic migrants, refugees and forcibly displaced persons. To date, IGAD and its Member States have already taken numerous steps to govern and address the issue of migration in the region, including adoption of the IGAD Regional Migration Policy Framework and the Migration Action Plan and promising steps taken towards the adoption of the IGAD Protocol on Free Movement of Persons. Both the Regional Migration Policy Framework and the Migration Action Plan have identified the facilitation of labour mobility, transhumance and free movement of persons as a strategic priority. In addition, in 2013, the Summit of IGAD Heads of State and Government adopted a Minimum Integration Plan to serve as a roadmap for regional integration, in which the free movement of persons is a key pillar. To this end, IGAD Member States endorsed in February 2020 a Free Movement and Transhumance Protocol, and steps are underway to accelerate the adoption of a roadmap for implementation of the protocol.

In order to support IGAD and its Member States aspiration towards a free movement regime, the ILO is implementing the European Union Emergency Trust Fund-financed project Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility. The overall objective of the project is to improve opportunities for regulated labour mobility and decent work within IGAD Member States through the development of models of intervention, in the broader context of free movement of persons and labour mobility in the region. In the long term, the project is expected to extend decent work opportunities

to current and potential migrants within the region, as well as contribute to regional integration; strengthen links between economic growth, climate change and job creation; and enhance the social and economic integration of migrants. The project has two major components: (i) knowledge-building and (ii) operational implementation. One of the main focal areas of the project is to deepen understanding of migration and labour market dynamics in the region, including the constraints and opportunities for employment creation and causes of skills shortages. As part of this knowledge generation component of the project, labour market analyses have been undertaken in IGAD Member States to understand the overall economic, labour, employment and migration dynamics in the countries, focusing on migration prone areas, particularly places of origin, transit and destination.

In this regard, the ILO has commissioned MarketShare Associates to conduct these labour market analyses in IGAD Member States: Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. These are captured in country reports and a regional synthesis report. Each report consists of an analysis of labour force characteristics, job creation patterns, and challenges and opportunities for improved labour market governance to support employment and job promotion. It considers labour market information, employment services and migrant workers, as well as labour market efficiency in the wider socio-economic context. Notably, each of these areas is focused on their relevance to employment and jobs promotion. Finally, the reports provide recommendations on each of these components, at the strategy, policy and intervention levels, respective to each of the social partners. Both primary and secondary data are used in this analysis.

Chapter 2

▶ **About
the report**

This chapter is structured as follows: Section 2.1. outlines the study objective and structure of the report; Section 2.2. provides an overview of definitions and concepts used in the study; Section 2.3. provides an overview of the primary data approach; Section 2.4. provides an overview of the secondary data approach; Section 2.5. addresses the stakeholder consultation concerning the finalization of the report; and Section 2.6 presents limitations of the study.

▶ 2.1. Objective and structure of the report

This labour market assessment (henceforth also referred to as "the report") aims to help deepen understanding of the labour migration and labour market structures and dynamics in the IGAD region. Against this backdrop, the report provides an analysis of Kenya's labour market, paying particular attention to labour migration and opportunities for productive employment for migrants and nationals.

Accordingly, the report provides an analysis of labour force characteristics, an overview of job creation and private sector development, and areas for improved governance for employment and jobs creation. It draws from available secondary data and new primary data and information collected as part of the study. This primary data and information consist of quantitative information collected through a questionnaire and qualitative data from interviews and focus group discussions with key stakeholders and seeks to fill information gaps and validate secondary data findings. The structure of the main body of the report and the main source of information are as follows in table 1:

▶ **Table 1. Structure of main body of report and types of data used**

Section of report	Type of data
3. Socio-economic context	
3.1. Socio-economic context	Secondary data
4. Labour force characteristics	
4.1. Labour force	Secondary data
4.2. Migrant workers	Secondary data and primary data
4.3. Skills composition	Secondary data and primary data
5. Job creation and the private sector	
5.1. Economic growth and trends	Secondary data
5.2. Private sector development	Secondary data
6. Labour force characteristics	
6.1. Employment policy and legislation	Secondary data and primary data
6.2. Labour market information	Secondary data and primary data
6.3. Employment services	Secondary data and primary data
6.4. Migrant workers	Secondary data and primary data

The report concludes with recommendations and next steps at the strategy, policy and intervention level, addressed at each of the social partners, that is, the Government, employers' groups and workers' groups.

▶ 2.2. Concepts and definitions

Appendix IV provides a glossary of definitions and concepts used in the study. As detailed in this section, the labour market definitions are consistent with the 19th International Conference of Labour Statisticians (ICLS) resolution on statistics of work, employment and labour underutilization (ILO 2013, and see box 1 below). For clarity, the definition of migrant workers as used in this study is presented below.

▶ Box 1. The importance of compliance with ICLS definitions and guidelines

The ICLS is the global standard-setting body in the area of labour statistics that convenes every five years. The ICLS sets guidelines for concepts and definitions that allow for consistent measurement and use of terms for all social partners, including labour ministries and national statistics offices, employers' groups and workers' groups. In the context of this study, secondary sources of labour market statistics and primary data and information were collected and compiled. It is important to highlight that these statistics and information are consistent with ICLS standards to allow for effective policymaking in Djibouti and comparability of findings among IGAD Member States.

Source: ILO 2018b.

"Migrant worker" or "international migrant worker" refers to all persons of working age (in this case, aged 15+ is used) present in the country of measurement, who were during the specified reference period in one of the following two categories:

i. usual residents – International migrants who were in the labour force of the country of their usual residence, either in employment or in unemployment; or

ii. Not usual residents (or "non-resident foreign workers") – Persons who, during a specified reference period, were not usual residents of the country, but were present in the country and had labour attachment to the country, that is, were either in employment supplying labour to resident producer units of that country or were seeking employment in that country.

Given the primary data collection element of this study, this definition is in line with the 20th ICLS Guidelines Concerning Statistics for International Labour Migration (ILO 2018b).

▶ 2.3. Primary data collection

Under the terms of reference for this assignment, primary data collection was prescribed at 400 quantitative interviews, 40 key informant interviews and eight focus group discussions, per country. Data collection focused on migrant prone locations. Quotas were fixed, and a sampling process and fieldwork plan were devised to maximize the value of the data gathered for both for the objectives of this study and for the wider research community. The following sub-sections provide information of the data collection for each component. Primary data collection took place between March and May 2019.

▶ 2.3.1. Quantitative interviews

Quantitative interviews were conducted in Garissa (100 interviews), Kisumu (104 interviews), Nairobi (109 interviews) and Bungoma (105 interviews). Enumerators were trained as part of the fieldwork process in each site and were briefed on the objectives of the assignment, the data collection tools and the selection process. Pilots were conducted in each location and verified by team leaders.

Interviews were conducted face-to-face with a standardized questionnaire (provided in Appendix II). The questionnaire was designed to capture the necessary information to be able to calculate variables that complied with ICLS-adopted labour statistics concepts and definitions. It should be noted that the structure of the questions is similar to a Labour Force Survey questionnaire in order to allow comparability, however the primary data collection was fundamentally different in that it was conducted as an individual assessment and not a household survey, and was focused only on a subset of variables with additional questions to capture information on migrant workers. The questionnaire contained four modules to capture information in the following areas:

▶ **Module 1:** Socio-economic characteristics of migrant workers

▶ **Module 2:** Labour force status of migrant workers

▶ **Module 3:** Characteristics of employed migrant workers

▶ **Module 4:** Nature of labour migration

The locations of Garissa, Kisumu, Nairobi and Bungoma were proposed for quantitative data collection during the inception phase of the study and agreed upon with the ILO. Each location was selected because it was a major recipient of migrant workers.

The questionnaire allowed for the identification of migrant workers from IGAD Member States, their migration status and length of stay, distinguishing between those that were in the country for more than six months (long-term migrant workers) and less than six months (short-term migrant workers). Long-term migrant workers were broken down into those who had official documentation (regular migration status) and those who didn´t (irregular migration status). While typically a migrant worker's migration status is attached to his or her work permit status, this cannot be assumed in all cases, and so the data presented are by migration status, not migrant worker status.

▶ 2.3.2. Description of the sample

The sample sought to capture information on migrant workers from a range of basic demographic characteristics (see Section 2.6. for sampling process and limitations). Most of the migrant workers that were interviewed as part of the study originated from Uganda (44 per cent), followed by Somalia (30 per cent), South Sudan (11 per cent), Ethiopia (10 per cent), Eritrea (3 per cent) and Sudan (2 per cent).

The sample consisted of 216 male and 202 female respondents, which is a lot more balanced than other samples from other countries in this series, and around 52 per cent

were married. The median age was 28 years old, but just 110 respondents (26 per cent) were youths (under 25). The majority of the sample, 231 out of 418 (55 per cent) were long-term migrant workers with irregular migration status, and 154 (37 per cent) were long-term migrant workers with regular status. Just 33 respondents (8 per cent) were short-term migrant workers.

The migrant workers from this sample generally had low levels of educational attainment: a combined 297 respondents (72 per cent) had attained a primary level of education or less. Women migrant workers, in particular, were more likely than men to have less than a primary level of education.

In terms of labour force status, 339 migrant workers (81 per cent) were classified as employed, and just 11 were unemployed. The fact that as many as 68 respondents (16 per cent) were classified as being outside the labour force may seem surprising considering that the methodology specifically targeted migrant workers. This can be explained by the fact that a strict definition of unemployment has been used to classify respondents. According to this definition, three criteria need to be fulfilled to define a situation of unemployment: not having a job, being actively searching for a job, and being immediately available to start a job should an opportunity arise. In labour markets that are largely informal, these criteria cannot always be fully observed, and the application of the strict definition results in classifying more people as out of the labour force than if a relaxed definition were to be applied.

Out of the 339 migrant workers in employment, 153 (45 per cent) were in wage employment, 18 (5 per cent) were employers, and a combined total of 165 (50 per cent) worked as own-account workers or contributing family workers, and could therefore be considered as being in vulnerable employment.

By occupational skill level, the majority of employed migrant workers from the sample (257 out of 339, or 71 per cent) were classified as working in medium-skilled occupations, which include service and sales workers. Only 31 (7 per cent of employed respondents) were engaged in high-skilled occupations (managers, professionals and technicians, and associates).

Informality was widespread. Among those in employment (n=339), 308 migrant workers (91 per cent) were working informally, a number relatively equally split between women and men. In addition, 229 (68 per cent) were working for informal units. These two metrics are complementary rather than exclusive and, analysed together, show how the line between formality and informality can be blurred in the world of work. By showing that most of the employed migrant workers interviewed were in informal employment, but that a smaller portion of them worked in informal units (or, conversely, that a meaningful share – 32 per cent – worked for formal units), the data underline the fact even formal units are likely to employ people (both migrants and nationals) informally.

▶ **Table 2.** Overview of the sample of migrant workers in Kenya, by sex, region and selected indicators

Location or indicator	Male	Female	Total
Region	**216**	**202**	**418**
Bungoma	38	67	105
Garissa	57	43	100
Kisumu	68	36	104
Nairobi	53	56	109
Age	**216**	**202**	**418**
15–24	45	65	110
25+	171	137	308

Migration status	216	202	418
Less than 6 months	13	20	33
Irregular status (more than 6 months)	130	101	231
Regular status (more than 6 months)	73	81	154
Educational attainment	**216**	**202**	**418**
Less than primary	19	46	65
Primary	124	108	232
Secondary	57	36	93
Tertiary	16	12	28
Labour force status	**216**	**202**	**418**
Employed	175	164	339
Unemployed	7	4	11
Out of labour force	34	34	68
Status in employment	**175**	**164**	**339**
Wage employed	82	71	153
Employer	15	3	18
Own account worker	74	79	153
Contributing family member	2	10	12
No response / unclassifiable	2	1	3
Occupational skills level	**175**	**164**	**339**
Low-skilled	12	36	48
Medium-skilled	141	116	257
High-skilled	20	11	31
Not elsewhere classified	2	1	3
Informality	**n.a.**	**n.a.**	**n.a.**
Informally employed	159	149	308
Working for an informal unit	109	120	229

– = nil; n.a. = not applicable.
Source: Primary quantitative data collection

2.3.2. Key informant interviews

A total of 40 key informant interviews were conducted for Kenya. These took place in Nairobi (22 interviews), Garissa (7 interviews), Bungoma (8 interviews) and Kisumu (3 interviews).

Interviews were conducted face-to-face in a semi-structured format (see Appendix III). However, interviewers were encouraged to probe outside of the semi-structured guides depending on the type of stakeholder and depending on how the interview was going. A core semi structured interview guide was focused on identifying key drivers of labour migration in the broader economic context, including economic disparities and decent and productive work deficits; formal and informal rules around labour migration governance; and the role of employment services to facilitate labour migration. Each interview lasted a maximum of one hour. The topic was also sometimes perceived to be sensitive, and key informants occasionally were reluctant to elaborate on or provide detailed answers to questions.

Interviews were conducted with a wide range of key labour market stakeholders at local, regional and national levels. Consultations with government officials in each locality were also used to identify respondents who could provide information. Respondents included government officials; economists and specialists focusing on rural development and migration; employers across a variety of sectors, community members who are economically active or part of the potential labour force; as well as civil society organizations and non-governmental organizations (NGOs) working in this area. Table 3 below presents an overview of the types of stakeholders interviewed, and the full list of interviewees is presented in Appendix I.

▶ **Table 3.** Overview of stakeholder interviews

Type of stakeholder	No. of interviews	Examples of stakeholders interviewed
Social partners		
Government	6	Ministry of Labour; County Employment Officer
Employers and employers' groups	10	Private Sector Business; Federation of Kenyan Employers
Workers and workers' groups	10	Kenya Private Security Worker's Union
Other		
NGOs and civil society	7	Red Cross; Dalberg
Other	7	African Population and Health Research Centre; National Council of Churches of Kenya

▶ 2.3.4. Focus group discussions

Focus group discussions were conducted in Nairobi (three group discussions), Garissa (two group discussions), Kisumu (two group discussion) and Bungona (two group discussion).

Discussions were conducted in groups of eight to ten people, with a facilitator who used a semi-structured guide to steer conversations around specific areas. The discussions were conducted with host communities and migrant workers, in male and female split groups to prevent social-cultural norms from undermining open discussions. The discussions sought to gather perspectives around labour migration, including the perceived impact on the economy and local community. Each discussion lasted on average one hour.

▶ 2.4. Secondary data collection

▶ 2.4.1. Desk review

A comprehensive desk review of secondary information was conducted to understand the situation and trends related to labour markets and labour migration in Kenya. The labour market analysis took into consideration information published in key planning documents as well as recent labour market analysis and research conducted. It also reviewed labour migration relevant legislation and policies as well as institutional mechanisms related to employment services. A full list of resources reviewed as part of this study is provided in the bibliography.

▶ 2.4.2. Secondary statistics

A wide range of available secondary statistics were compiled from key statistics sources to support the identification of socio-economic issues, labour market dynamics and labour migration corridors that offer decent and productive employment growth potentials. The main secondary statistics sources used are listed in Table 4 below (please note this does not include primary data or reports that were not focused on statistics):

▶ **Table 4.** Structure of main body of report and sources of secondary statistical data used

Section of report and type of data	Main source(s) of secondary statistics
3. Socio-economic context	
Gross domestic product (GDP)	International Monetary Fund (IMF) – World Economic Outlook Database – April 2019.
Population	United Nations Department of Economic and Social Affairs (UNDESA), Population Division – World Population Prospects: The 2017 Revision.
Urbanization	UNDESA, Population Division – World Urbanization Prospects: The 2018 Revision.
Poverty and inequality	World Bank – World Development Indicators, 2019.
Human development	UNDP – Human Development Indices and Indicators: 2018 Statistical Update.
Migrant stock	UNDESA. Population Division – Trends in International Migrant Stock: The 2017 Revision
Refugee stock	United Nations High Commissioner for Refugees (UNHCR) – UNHCR Population Statistics Database
Remittances	World Bank – Migration and Remittances database, 2017
4. Labour market supply	
Labour force	Kenya Integrated Household Budget Survey (KIBHS), 2015/16; Economic Survey 2018; ILO Modelled Estimates
Job creation	KIBHS, 2015/16
5. Job creation and private sector	
Economic growth and trends	IMF – World Economic Outlook Database, April 2019; United Nations Conference on Trade and Development (UNCTAD) – UNCTADstat database.

▶ 2.5 Final technical revision and virtual consultation

In its finalization phase, the report underwent a technical revision exercise and was presented to a broad group of stakeholders during a virtual workshop. The technical revision addressed the fact that, due to exceptional circumstances, such as the advent of the COVID-19 pandemic, the publication date of the report was delayed, with the effect that some of the data and information informing the socio-economic and policy sections of the report had to be updated. However, this delay allowed the technical review team (composed of two national and one international experts) to include some last-minute information about country responses to the pandemic (see Section 3.5.).

The report was then further enriched with comments collected during a final consultation workshop which brought together a large group of stakeholders. In line with restrictions adopted in the wake of the COVID-19 pandemic, the workshop was held virtually. It was organized around four parallel sessions, giving participants the opportunity to intervene in structured discussions along the themes of the report.

▶ 2.6. Limitations and considerations

The above sections have listed the limitations according to each methodological component to the study; however, it is necessary to clarify what this Kenya labour market analysis is and what it is not.

It should be noted that owing to the focus on migrant workers, this report is not a standard labour market analysis. This labour market assessment places emphasis on the role of migrant workers in the wider labour market and socio-economic context, and considers how migrant workers can contribute to improved decent and productive employment in Kenya.

It was initially envisioned that the quantitative interviews would be conducted with migrant workers and national workers in order to allow for comparison between the two groups. This would have been conducted using a random sampling process. However, the required sample of 400 interviews was considered too small to have statistical significance in analysing the differences between the two groups, especially when disaggregating the data further. It should also be underscored that a representative sample was not feasible with 400 interviewees. As a result, the

sample targeted migrant workers only using purposeful sampling. Enumerators with local context were able to identify individuals who were engaged in some form of work or actively looking for and available to work, and then to conduct interviews. Oversampling (a total of 418 interviews were eventually conducted) allowed for the eventuality that some of those who were interviewed would ultimately not be classified as migrant workers according to the ICLS guidelines. Those who were classified as out of the labour force are still included in the dataset for analysis of labour underutilization.

Notably, there is a lack of available and relevant up-to-date national labour statistics and information for Kenya, including insufficient administrative records to monitor labour migration stock and flows. Kenya does not have a regular labour force survey and the country's Integrated Household and Budget Survey (KIHBS) is conducted on an ad hoc basis. The most recent KIHBS data are from 2015/2016 and cover limited labour market indicators mostly around the quantities of employment and unemployment. The available information does not allow for an analysis of structural changes in the labour market stemming from changes in the

quantity and quality of productive and decent employment. Available management systems, such as the Kenya Labour Market Information System (KLMIS) and the Integrated Multi-sectoral Management Information System, are also limited in scope. Altogether, the lack of sufficient labour market data compromises the ability to analyse and understand the labour market situation and trends or to measure the impact labour migration has on labour market outcomes. [2] As a result, a mix of sources were used to compile labour force characteristics (Section 4), including the KIBHS 2015/16, Economic Survey 2018 and ILO modelled estimates. None of these sources are strictly comparable and footnotes are applied where relevant to draw attention to this fact.

Labour migration governance is very relevant to this analysis; however, a parallel study was also commissioned entitled An Assessment of Labour Migration and Mobility Governance in the IGAD Region: Country Report for Kenya (ILO 2020a). With this in mind, this Kenya labour market analysis seeks to complement rather than replicate this other report. The two reports should be seen as accompanying each other. It should also be noted that in this Kenya labour market analysis, migrant workers are considered from the perspective of the labour market and not from a migration perspective. The aforementioned ILO (2020a) report also looks at labour migration governance in the context of wider migration policy and should be consulted to get more information related to this angle.

---

2   For further information visit http://statistics.knbs.or.ke/binken/RpWebEngine.exe/Portal and https://www.labourmarket.go.ke/

Chapter 3

▶ **Socio-economic context**

Kenya is the financial and transport hub of East Africa. The country's real GDP growth has averaged over 5 per cent per annum since 2010 (World Bank 2019a). Since 2014, Kenya has been ranked as a lower middle-income country (World Bank 2019b). While Kenya has a growing entrepreneurial middle class and steady growth, its economic development has been weakened by frail governance and high borrowing in recent years (AfDB 2019). The public debt–to-GDP ratio increased considerably over the past six years to 61.1 per cent at the end of June 2019 (National Treasury 2019).

▶ 3.1. Economic growth in Kenya: Steady, but not inclusive enough

Large infrastructure investments are not yet reflected in macroeconomic performance. Gross fixed capital formation declined, standing at only 16.8 per cent in 2019 versus 20.8 per cent in 2010 (World Bank 2019a). As Kenya's real GDP growth rate nearly doubled between 2010 and 2017, levels of investment declined between 2010 and 2017. Imports stood at 24.1 per cent of GDP in 2017, 23 per cent in 2018, and 21.4 per cent in 2019 – 9.5 percentage points lower than imports in 2010. At the same time growth in exports is declining from 20.7 per cent of GDP in 2010 to 13.2 per cent in 2017, 13.2 per cent in 2018, and 12 per cent in 2019; while household spending has actually grown as a share of GDP from 2010 to 2017 alongside inflation, reaching 6.3 per cent in 2016, 8 per cent in 2017, and 4.7 per cent in 2018 (KNBS 2018c; 2019).

Kenya's positive growth has not yet led to a structural economic transformation toward higher productivity and more inclusive economic growth. According to Kenya's Integrated Household Budget Survey 2015/2016, the overall poverty headcount rate (persons living on less than US$1.90 per day) for individuals at the national level stood at 36.1 per cent in 2015/16, compared to 46.8 per cent in 2005/06, which corresponds to 16.4 million individuals living in poverty (KNBS 2018a). The highest overall poverty incidence was in rural areas, where 40.1 per cent of residents were considered as overall poor, compared to 27.5 per cent in peri-urban and 29.4 per cent in core-urban areas. Weak productive capacity is also reflected in low levels of economic development and declining growth in per-capita income, from 5.5 per cent in 2010 to 2.3 per cent in 2017 (World Bank 2019a).

▶ 3.2. Kenya's population is growing rapidly

Kenya has seen a steady increase in its population over the years, which stood at 47.6 million as per the 2019 Kenya Population and Housing Census, with 35.7 million people (75.1 per cent) below 35 years old and 13.7 million young people aged 18 to 34 years (KNBS 2019a). The population is projected to nearly double by 2050 to 95.5 million. Kenya's population remains very young, with around 58 per cent under the age of 25 in 2019, because of sustained high fertility, early marriage childbearing and low uptake of family planning. Kenya's persistent rapid population growth strains the labour market, social services, arable land and natural resources. Although Kenya was, in 1967, the first Sub-Saharan country to launch a nationwide family planning programme, progress in reducing the birth rate has largely stalled since the late 1990s, when the Government decreased its support for family planning to focus on the HIV epidemic. Government commitment and international technical support spurred Kenyan contraceptive use, decreasing the fertility rate (children per woman) from about eight in the late 1970s to less than five children twenty years later, but it has plateaued at just over four children today (KNBS 2019a).

As a result of high fertility, the child-dependency ratio (ages 0–14 to 15–64) stood at 73.7 in 2015 (UNDESA 2018a) and 71.3 per cent in 2019 as per (KNBS 2019a). In other words, every ten employed Kenyans have a burden of supporting, on average, seven people who are too young to be in the labour force. Considering those over 65, the total employment dependency ratio stood at 81.6 per cent in 2015/2016 (KNBS 2018b). In summary, there are currently eight dependents for every ten working Kenyans. This leaves the average worker with little left to save or invest for growth.

Kenya's prime age (25–64) cohort is equal to 36 per cent of the country's total population in 2019. This share is expected to rise significantly over the next decades, reaching around 47 per cent in 2050; while the share

of people above 64 will also nearly double. The child population (ages 0–14) comprised 38.4 per cent in 2015. This share is projected to steadily decrease through 2050. The youth age cohort (15–24) stood at 20 per cent of the total population in 2015 and is projected to decline to 17.5 per cent by 2050.

Overall, these figures are indicative of largely favourable demographic trends in the country, with a large share of the population being of working age and therefore with the potential to be in the labour force, which can support higher rates of economic growth and development if sufficient decent and productive employment opportunities are available and if the country's existing and potential workforce have the necessary skills to take up these opportunities.

▶ 3.3. Urbanization

Alongside these favourable demographic trends, Kenya has rapidly become more urbanized (total urban population makes up to 31.1 per cent of the Kenyan population, totalling to 14.83 million with Nairobi city ranking highest in urban population with 4.397 million (KNBS 2019a). Nearly 30 per cent of the people now live in the capital Nairobi and in other urban centres. This share is projected to rise to nearly 50 per cent by 2050 (UNDESA 2018). This indicates the potential for expanding formal wage employment opportunities along value chains in more productive sectors and for diversifying the country's economic base to more manufacturing (agribusiness is a vital

sector) and services-oriented industries that add value to local resources and produce. At the same time, a significant share of the population is likely to remain in relatively low-productivity agricultural employment. Due to steady urbanization, the industry and manufacturing sectors are increasingly important to the Kenyan economy and are prioritized in Kenya's current economic development plans. Food security, affordable housing, manufacturing and universal healthcare are the "big four" development cornerstones that President Uhuru Kenyatta's Administration pledged to focus on during his second and final term in office until 2022.

▶ 3.4. Human development, poverty and inequality

Structural changes to value added productivity have to go hand in hand with investments in human development and human capital development. A review of Kenya's progress in human development formation since 2010

reveals steady progress. Kenya's Human Development Index (HDI) value for 2017 was 0.590, which puts the country in the medium human development category, positioning it at 142 out of 189 countries and territories

(UNDP 2018). However, when the value is discounted for inequality, the HDI falls to 0.434, a loss of 26.4 per cent due to inequality in the distribution of the HDI dimension indices. Inequality in human development reflects the fact that economic growth has only created a small growing middle class concentrated in urban areas, while poverty reduction and job creation, especially in rural areas, has been less than expected.

Inequality is rife in the country and contributes to persistent poverty. Inequality, as measured by the Gini Index, has been increasing between 2004 and 2015, but is still relatively low by global standards. The Gini Index for Kenya was estimated at around 0.41 in 2015, (where 1 is perfect inequality and 0 is perfect equality), down from 0.46 in 2005, representing an improvement over the preceding decade (World Bank 2019a).

To tackle inequality the Government has taken a number of measures. For instance, the Social

Protection Secretariat under the Ministry of Labour and Social Protection was established in 2010 to guide and facilitate integration, coordination and harmonization of social protection programmes in Kenya under a national social protection system.

In the 1960s and 1970s, Kenyans pursued higher education in the United Kingdom of Great Britain and Northern Ireland because of colonial ties, but as British immigration rules tightened, the United States of America, the Soviet Union and Canada became attractive study destinations. Kenya's stagnant economy and political problems during the 1980s and 1990s led to an outpouring of Kenyan students and professionals seeking permanent opportunities outside of the country. In 2017, major destination countries for Kenyans were the United States and the United Kingdom, followed by Uganda and the United Republic of Tanzania (UNDESA 2017b).

▶ 3.5. Migration dynamics in Kenya

▶ 3.5.1. Kenya as a host country

The vast majority of migrants in Kenya are from other African countries; the majority are from East African countries, of which Uganda and South Sudan are part of the IGAD region (UNDESA 2017b). Kenya is hosting large numbers of refugees from neighbouring countries. According to the UNHCR, in early 2019 Kenya was hosting an estimated 475,412 refugees and asylum-seekers (UNHCR 2019). Kenya's refugees are mainly from Somalia, Ethiopia and South Sudan, whereas the asylum-seekers are mainly from eastern areas of the Democratic Republic of the Congo, Burundi and Ethiopia. Kenya, with the support of the UNHCR, is currently running a large-scale resettlement programme to promote the return of Somali refugees. Since the beginning of the programme in 2015, the number of Somali refugees in Kenya has reduced significantly from 418,913 to 259,100 in 2019 (UNHCR 2019).

▶ 3.5.2. Kenya as a country of origin and remittances

Kenya experienced a change in net migration flows during the last two decades, moving from a positive value in the 1990s to a negative value in recent years. This suggests that the country is "exporting" workers that are looking for better job opportunities elsewhere. Remittances received in Kenya are a central part of its GDP. The Central Bank of Kenya estimates suggest that Kenyans living abroad contributed about US$2.104 billion to Kenya's economy in 2017, compared to US$2.453 billion in 2018 and US$2.546 billion in 2019. Remittances are a top source of foreign exchange, ahead of tourism and agricultural exports such as tea, coffee and horticulture. For example, the monthly remittances inflows in 2019 averaged 23 billion Kenyan shillings (about US$228.14 million, or US$2.74 billion per year (CBK 2020). Remittance inflows to Kenya have tripled from US$686 million in

2010, with most of the money coming from the United States and Europe. Transfers of funds from Kenyans living in African countries were very small and have been declining in recent years, according to Kenya's Diaspora Alliance (World Bank 2017).

▶ 3.6. COVID-19 and migrant workers in Kenya

▶ 3.6.1. Assessment of vulnerability of the country

The economic crisis induced by COVID-19 has greatly affected the global population and migrant workers even more so. Lockdowns, travel bans and social distancing have brought global economic activities to a near standstill. Whereas exact statistics may take a long time to be assembled by relevant institutions, it is clear that Kenya's aviation, horticulture, floriculture, hospitality and tourism sectors have suffered immensely as a result of the crisis.

In Nairobi, big hotels like the Intercontinental Hotel, Serena, Norfolk Hotel, Laico and the Grand Regency, which employed thousands of workers, literally shut down, releasing their employees on the labour markets with attendant suffering of the workers and their dependents. In Mombasa, on the East African coast, all beach hotels have been affected by the cancellation of international flights and hotel bookings. The same applies in the Great Rift Valley and the Mount Kenya Region.

In the transport sector, Kenya Airways has cancelled long haul flights; in agriculture, the cut flower farms and horticultural crop growers (coffee, tea and ground nuts) have equally been affected. Kenya Power company has posted a loss for the first time in 17 years.

Small- and medium-size enterprises and the service sectors that employ a majority of the workers, including youth, women and migrant workers, suffered a lot in terms of job and income losses and disruption of trade and global supply chains.

▶ 3.6.2. Migrant-specific responses

Following the outbreak of COVID-19 in Kenya in March 2020, a number of initiatives have been undertaken to protect migrant workers, whether they be migrant workers in Kenya or Kenyan workers abroad.

Notably, for migrant workers in Kenya, a memorandum of understanding (MOU) was signed between the Ministry of Labour and Social Protection, the Central Organization of Trade Unions, and the Federation of Kenya Employers. Among other things, this MOU provides an enabling framework through which workers and employers can dialogue the effects of the pandemic on labour and employment. It further stipulates that neither Kenyans nor foreigners can be discriminated against in the workplace. Importantly, it provided that any migrant workers in possession of a regular permit of employment who lost their jobs as a result of COVID-19 would retain their authorization of residence or work permit. This is extended to their children and spouses.

For Kenyan workers abroad, in recognition of the role they play in the national development agenda, the Ministry of Labour and Social Protection and the Ministry of Foreign Affairs established a Joint Committee to ensure preparedness and respond effectively to the challenges these workers face while away from their country. A total of 748 distress cases involving Kenyan migrant workers were reported from 34 countries, with majority being domestic workers and hospitality sector workers, and a further 3,685 Kenyans in distress were repatriated back to the country by the end of July 2020.

Chapter 4

▶ **Labour force characteristics**

This chapter provides an analysis of labour force characteristics in Kenya and is structured as follows: Section 4.1. outlines the overall labour force including the state of employment by sector and status; Section 4.2. provides a snapshot of the labour market characteristics of migrant workers, as derived from primary data collected as part of this study as well as secondary data; Section 4.3. examines the skills composition of the Kenyan labour market including migrant workers in Kenya; and Section 4.4. summarizes the findings of the chapter in relation to labour force characteristics in Kenya.

Notably, as detailed in Sections 2.4. and 6.2., the last labour force survey in Kenya was conducted in 1999. Since then, selected labour market indicators are published that draw from the Kenya Integrated Household and Budget (KIHBS) and Economic Surveys. This labour market information carries a number of limitations and inconsistencies between the surveys. Hence, in this chapter, additional labour market information is drawn from the use of ILO modelled estimates where nothing is available in official data. The official data from the KIHBS complies with the 13th ICLS definitions for labour force statistics, and therefore does not comply with the latest definitions (as per the 19th ICLS).

▶ 4.1. labour force

The labour force is estimated at 19 million in 2015/16, which corresponds to a labour force participation rate of 76.6 per cent (KNBS 2018b). [3] Labour force participation was marginally higher for men (78.7 per cent) than women (74.6 per cent). Labour force participation rates give an indication of the quantity of labour supply in the economy and can be used as an important planning instrument in the design of human resource development policies, and employment and training policies in particular; however, it is not possible to reliably monitor labour force participation trends over time due to weaknesses in the available data.

Robust population growth has placed considerable pressure on the labour market. ILO modelled labour force participation estimates incorporating national input data suggest that labour force participation rates have declined over the last decade (ILO 2019c). This can, in part, be attributed to significant improvements in the education system, whereby young boys and girls remain longer in school (and are thus not part of the labour force), and the introduction of pension and retirement schemes that allow people to retire earlier.

▶ 4.1.1. A high number of young entrants in the labour market every year

Kenya is at a pivotal point of demographic transformation. Fertility rates are declining and life expectancy is growing. It is estimated that during the next decade an average of 900,000 people will enter the labour force each year (UNDESA 2017a). Growth of decent and productive employment will be necessary to allow for a structural transition towards higher productivity if Kenya is to capitalize from the demographic dividend.

▶ 4.1.2. Unemployment

The unemployment rate was estimated at 13 per cent in 2015–16 (KNBS 2018b). Youth (ages 15–24) comprised 55 per cent of all unemployed in 2015–16 (with an unemployment rate of 17.7 per cent). Further, the unemployment rate was higher in urban areas (11.8 per cent) than rural areas (3.8 per cent). However, the unemployment rate is considered using a strict definition (see definition in Appendix IV) that does not capture those that do not meet all of the criteria – for instance, those that are not in

---

3 The working-age population is calculated here for those aged 15-plus.

employment, available to work but have stopped actively looking. Therefore, additional indicators, such as labour underutilization and working poverty, can help provide a more comprehensive picture.

In the absence of well-functioning social security schemes, relatively few people can survive lengthy spells of unemployment without family support and instead must accept some form of employment. Unemployment statistics demonstrate that the majority of the unemployed had at least secondary school levels of educational attainment. The results suggest that unemployment in Kenya is largely the result of intensive investments in human capital development that was not matched by the creation of sufficient decent and productive employment.

4.1.3. Employment ratio and employment type

A total of 19.5 million were employed in Kenya in 2015–16, with relatively equal shares between men (51.2 per cent) and women (48.8 per cent) (KNBS 2018b). A total of 61.2 per cent of the employed were in rural areas, and the remaining 38.1 per cent were in urban areas. The employment-to-population ratio for the working-age population (aged 15+) is estimated at 71.2 per cent in 2015–16. According to the ILO's modelled estimates, the ratio has declined over the past two decades and is projected to continue to do so (ILO 2019d). This can be attributed to a range of factors, including working age population growth, longer time spent in the educational system, and insufficient job growth.

The KIHBS publishes only limited data to assess the quality and types of jobs and employment held in Kenya, despite having relevant questions in the questionnaire (KNBS 2019b). [4] For instance, no data are available for status in employment or for broad economic sectors. Instead, the KIHBS reports provide detailed information about levels of full-time and part-time employment and hours worked, as well as selected breakdowns of worker types, which are categorized under

"working patterns". Among those aged 15–64, the KIHBS states that 63.2 per cent were full-time employees, and that seasonal workers accounted for a further 13.6 per cent and casual workers another 12.6 per cent. Urban areas had a higher proportion of full-time employees at 71.8 per cent, compared to 57.7 per cent in the rural areas. Similarly, urban areas had a higher proportion of casual employees at 14.1 per cent, compared to rural areas at 11.7 per cent. About 85 per cent of all seasonal workers were in rural areas.

4.1.4. Underemployment

In 2015–16, 20 per cent of workers had a job but an insufficient volume of work; these workers are classified as being in time-related underemployment (KNBS 2019b). Statistics on time-related underemployment are vital to complement figures on unemployment to fully understand all dimensions of underutilization in the labour force. In Kenya, people are defined as being time-related underemployed if they have a job (that is, their main job) but worked less than 28 hours per week in their main job and were "willing to work additional hours", either by wanting an additional job to increase their total number of working hours or by considering replacing their current job with another job to increase their hours of work during a work week.

Time-related underemployment was especially common among youth between 15 to 19 years of age (55 per cent) (KNBS 2019b). Time-related underemployment was higher in rural areas (27 per cent) than in urban areas (11 per cent). The share of women in time-related underemployment (62 per cent) was notably higher than for men (38 per cent). The results highlight the lack of sufficient decent and productive employment opportunities, especially in rural parts of the country and for women. In developing economies in particular, the impact of demographic shifts and economic instability is often felt in the form of shorter working hours, reduced incomes and rising vulnerable employment rather than in changes in employment levels alone.

---

4   Data presented by status in employment is based on the 1993 International Classification of Status in Employment (ICSE-93). The ICSE-93 classifies jobs into five main categories, which can be grouped under two main types of jobs: paid employment jobs (employees) and self-employment jobs (employers, own-account workers, contributing family workers and members of producers' cooperatives). A sixth category is reserved for workers not classifiable by status.

▶ 4.1.5. Status in employment

According to the Economic Surveys, wage employment is declining as a share of total employment. Wage employment increased by 373,500 jobs between 2013 and 2017, equivalent to 93,000 jobs per year, but wage employment as a percentage of total employment dropped from 16.9 per cent to 15.7 per cent over the same period (KNBS 2018c). This suggests that greater job creation was experienced in non-wage jobs (self-employment and unpaid family work) during the same period. Wage employment as a percentage of total employment was highest in education (20.7 per cent); agriculture, forestry and fishing (12.5 per cent); manufacturing (11.4 per cent); and public administration and defence (9.9 per cent) in 2017 (KNBS 2018c). Wage employment as a percentage of total was highest in agriculture (15.5 per cent), manufacturing (14.8 per cent), wholesale and retail (13.3 per cent) and education (11.36 per cent) in 2018 (KNBS 2019b). Employment between 2013 and 2017 grew primarily in the informal sectors of the economy, according to the Economic Survey

2018 (KNBS 2018c). Informality represents a major challenge related to decent and productive job creation in the country.

> *"In Kenya there are many law and policies protecting workers, but they are not actively implemented."*
> *– Key informant*

According to ILO modelled estimates, around 61 per cent of the total labour force was working in the agricultural sector in 2018, with 13.4 per cent in wholesale and trade and 3.5 per cent in manufacturing (ILO 2019e). Sectors such as "finance and insurance" and "transport and communication" employed a very small proportion of the employed population. According to the 2018 Economic Survey, 15.3 per cent of new jobs created in 2017 were in the agriculture sector, 14.6 per cent in the manufacturing sector, 13.4 per cent in wholesale and retail and 11.6 per cent in the education sector (KNBS 2018c).

▶ 4.2. Migrant workers from the IGAD region

This section focuses on the role that migrant workers from IGAD Member States play in Kenya, drawing from secondary and primary research.

▶ 4.2.1. Characteristics of the migrant workers from the IGAD region

Primary data was collected as part of this series of reports on migrant workers from the IGAD region via a structured questionnaire (see Appendix II). The data allowed for the identification of migrant workers from IGAD Member States, their migration status and length of stay, distinguishing between those who were in the country for more than six months (long-term migrant workers) and

less than six months (short-term migrant workers). Long-term migrant workers were broken down into those who had official documentation (regular migration status) and those who did not (irregular migration status). The migration status was not captured for those in the country for less than six months.

Salient characteristics of the migrant workers in the sample are represented in Figure 1. This chart is designed to put a spotlight on the main characteristics of the sample in review. Some of the labour market indicators are expressed out the total employed (339 respondents), such as status in employment, occupational skill level, and formal or informal employment. The remaining indicators –age, migration status and educational attainment – are expressed out of the whole sample (418 respondents).

Starting with migration status and length of stay, data show that 93 per cent of the migrant workers interviewed had been in Kenya for more than six months, but also that 60 per cent of those long-term migrant workers had irregular status. This was particularly true for long-term migrant workers from Uganda (n=184), 76.1 per cent of whom lacked regular status despite the fact that:

i. the East African Community (EAC) Common Market Protocol allows workers from any EAC Partner State (Kenya and Uganda included) to accept employment within any other EAC country, and

ii. they cannot be discriminated against for a job offer on the basis of their nationality.

This raises questions as to whether these protocols are effectively implemented, or whether the administrative procedures remain too complicated to be easily complied with, or whether migrant workers from EAC Partner States are at all aware of their rights under the protocols.

After Uganda, the country of origin with second-highest proportion of long-term migrant workers with irregular status was South Sudan (n=47), with 61.7 per cent of respondents in this situation. However, most of the respondents from Ethiopia, Eritrea and Somalia were long-term migrant workers with regular migration status.

Almost three quarters (74 per cent) of respondents from the sample were adults (that is, more than 25 years old), and most had a low educational attainment, with 71 per cent of respondents having at most a primary level education.

Figure 1 shows that a large share of the sample is likely to be in vulnerable employment. Vulnerable employment can be approximated by looking at the cumulative share of own-account workers and contributing family workers, and the data collected show that 50 per cent of respondents were in one of these employment situations.

Even for the remaining 46 per cent in wage employment, the quality of their employment was likely to be unsatisfactory, as more than nine in ten migrant workers from the sample were employed informally. Men (46.9 per cent) were slightly more likely than women (43.3 per cent) to be in wage employment. Instead, women were marginally more likely to be own-account workers (48.2 per cent) than men (42.3 per cent). In terms of occupational skills level, the largest share of migrant workers from the sample held mid-level occupations, such as in services, sales or trade.

"Many migrant workers bring innovation. They come up with new business idea and ways of doing business. Many businesses in Kenya are run by migrants from IGAD countries, especially Somalis, and they generate a lot of income opportunities for locals and migrant workers alike." – Key informant

▶ **Figure 1.** Selected characteristics of the migrant workers sampled
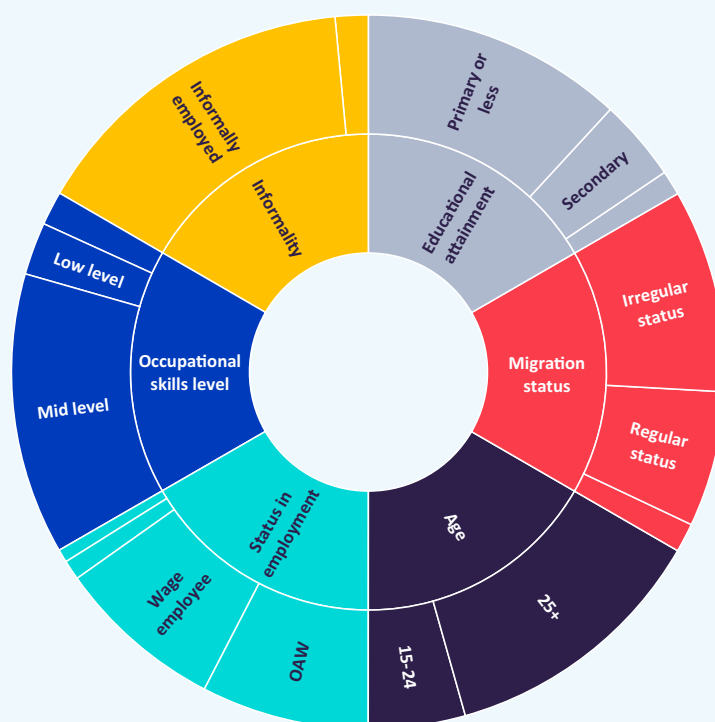
OAW = own-account worker.   Note: The sample group for occupational skills level, status in employment, and informality only includes employed respondents (n=379). All respondents (n=440) are considered for education attainment, migration status, and age.   Source: Primary quantitative data collection.

When asked about their reason to come to Kenya, the majority of respondents (62 per cent) said they came in search of income opportunities or jobs. Ugandans, Ethiopians and Somalis interviewed were found to migrate to Kenya predominantly to work; while South Sudanese, Eritrean and Sudanese interviewed came to Kenya for other reasons (such as to study) but ultimately joined the labour force.

"Lack of decent and productive employment in the migrants' country of origin is driving migrants into Kenya in search for better opportunities for a better life." – Key informant

Status in employment of the migrant workers interviewed

By migration status and length of stay, long-term migrant workers from the sample with regular migration status were more likely to be either employers (11 per cent) or own-account workers (50 per cent) than those with irregular migration status, only 2 per cent of whom are employers and 45 per cent own-account workers (figure 2). The main difference between own-account workers and employers is the scale of operations, employers being essentially own-account workers with employees. As mentioned earlier, own-account work is often used as a proxy for employment vulnerability, but the situation is probably a little more complicated than this in Kenya. It seems, at least from the respondents in the sample, that the long-term

migrant workers with regular status have managed their economic integration in a way that those with irregular status have not been able to do. This seems to underline a situation whereby a regular status does have an impact on the livelihood of migrant workers.

In contrast, short-term migrant workers and long-term migrant workers with irregular status were more likely to be wage employees, which, considering the high levels of informality among the sample (see Figure 3), is another indication of vulnerability. If, in theory, a large chunk of the migrant workers from the sample have the right to work and live in Kenya, this is not reflected in the data collected, which raises questions on the enforcement of labour migration and employment policies in the country.

▶ **Figure 2.** Migrant worker status in employment, by migration status and length of stay (n=339)
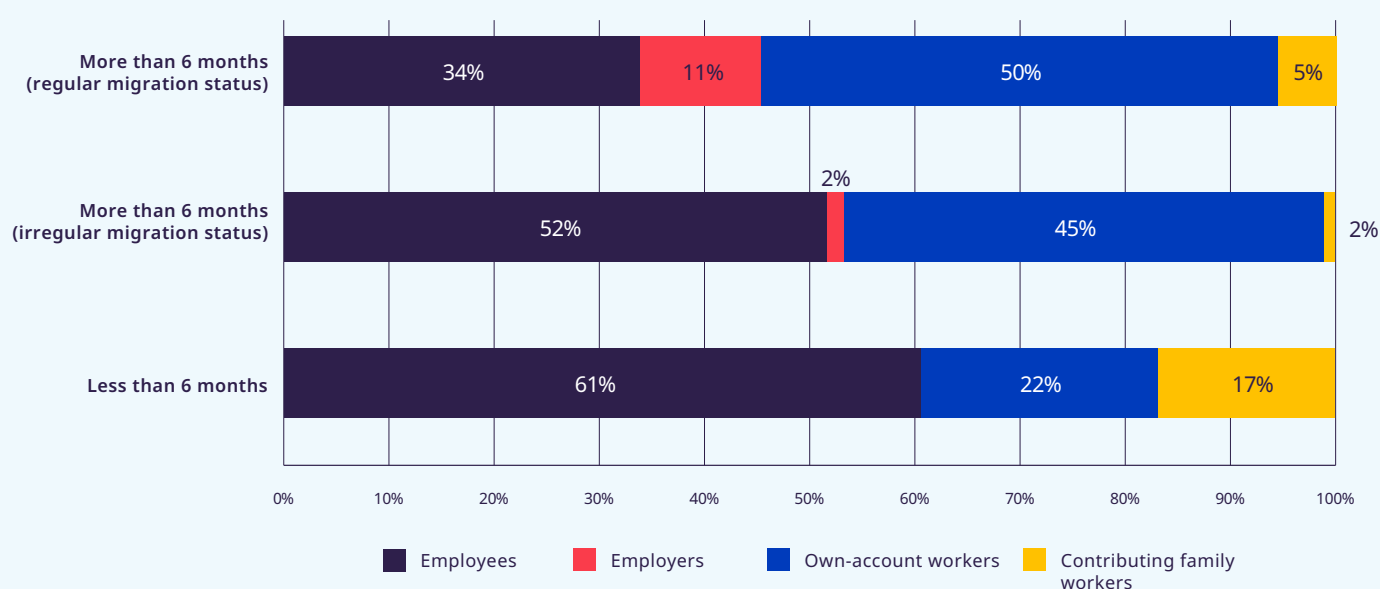
Source: Primary quantitative data collection.

Informal employment among migrant workers interviewed

The vast majority (90 per cent) of migrant workers interviewed were in informal employment (see definition in Appendix IV), meaning they did not have access to social security entitlement or forms of paid leave, even if, in theory, labour laws in Kenya apply to all workers and workplaces [5]. A slightly lower share (67 per cent) were working for informal enterprises (see Figure 4). This implies that many of those in informal employment were working for formal enterprises (that is, registered firms, compliant with tax and other regulations – see Appendix IV for full definition).

"The challenge in Kenya is that the national minimum wage for low-skilled jobs is too high and the wage differential between professional and unskilled workers too narrow." – Key informant

There are some differences by migration status and length of stay, with long-term migrant workers (regardless of migration status) being more likely to be in informal employment than short-term migrant workers (Figure 3). Bearing in mind the status in employment data above (Figure 2), this suggests that short-term migrant workers from the sample were more likely to be in formal arrangements as employees.

▶ **Figure 3** Informal employment, by migration status and length of stay (n=339)

Source: Primary quantitative data collection.

---

5 The Employment Act (2007) and the Labour Relations Act (2007) guarantee protection to all workers regardless of their statuses. Article 41 of the Constitution of Kenya 2010 also states, "Every person has the right to fair labour practices."

Similarly, short-term migrant workers were more likely to be in formal enterprises (56 per cent) than long-term migrant workers. A seemingly surprising finding is that long-term migrant workers with irregular status were more likely than those with regular status (34 per cent against 24 per cent, respectively) to be employed in a formal unit of production. This could be explained partly by the facts that: (i) those with regular status were more likely to be employers; and (ii) that all employers were in informal enterprises. In other words, long-term migrant workers with regular status might have created more enterprises than those with irregular status, but the enterprises they created were informal.

▶ **Figure 4.** Employment in informal enterprises, by migration status and length of stay (n=339)

Category	Informal unit of production	Formal unit of production	Household
More than 6 months (regular migration status)	75%	24%	1%
More than 6 months (irregular migration status)	65%	34%	1%
Less than 6 months	44%	56%	0%
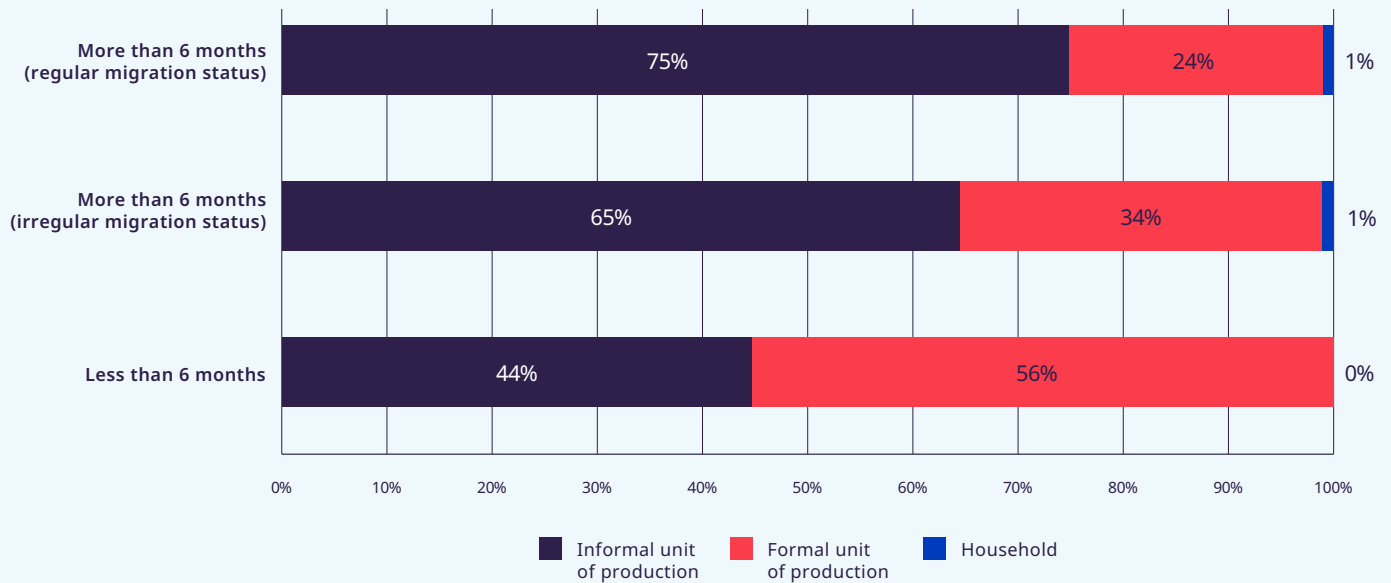
Source: Primary quantitative data collection.

► ## 4.3. Skills and education composition of the labour force

This section provides an overview of the skill and education composition of the labour force, drawing from the most recent labour force survey. Using primary quantitative data and key informant interviews, it also presents findings on the skills composition of migrant workers. In addition, this section highlights some implementation issues around the provision of technical and vocational skills training as drawn from key informant interview findings.

Educational attainment of the national labour force

The results from the 2015–16 KIHBS indicate that among Kenya's labour force (with a working age defined here as 15–64) 46 per

cent had attained a primary level of education. Further, 8 per cent of the labour force had less than a primary level of education. A total of 40 per cent had attained a secondary level of education, with the remaining 4 per cent having attained a tertiary level (KNBS 2018b). By sex, women had, on average, lower levels of educational attainment, with a higher share having a less than primary level of education (11 per cent versus 6 per cent for men), and a relatively equal share having a primary level of education (47 per cent versus 45 per cent for men). The share of women with secondary and tertiary levels of education was lower than for men, at 38 per cent versus 43 per cent for secondary education, and 4 per cent versus 5 per cent for tertiary education (Figure 5).

► **Figure 5.** Level of educational attainment of the labour force in Kenya, by sex
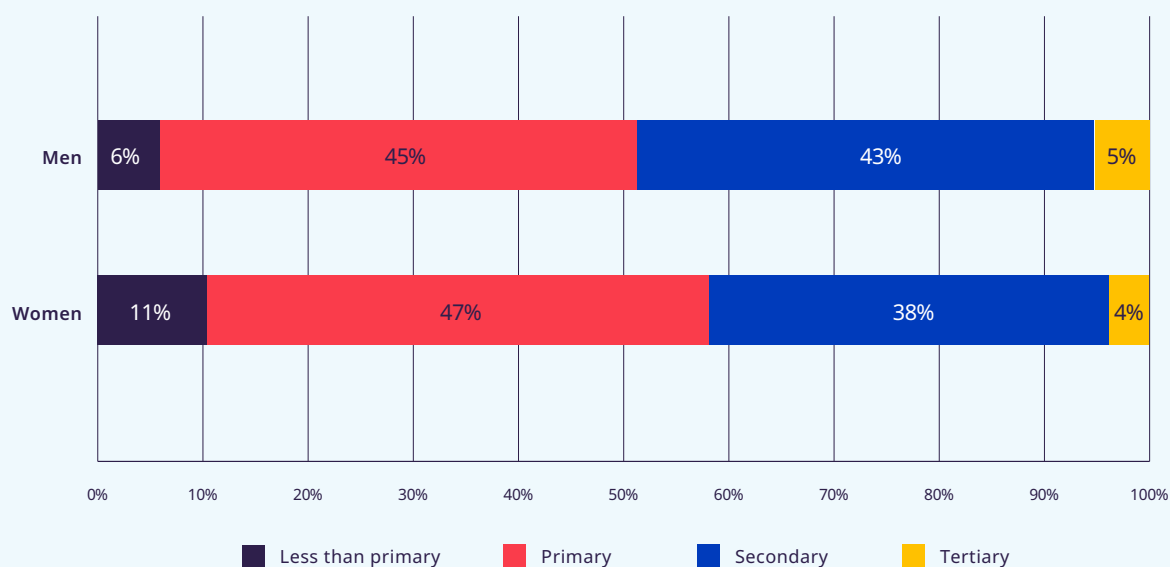
Source: KNBS 2018b.

Educational attainment of migrant workers interviewed

With regard to the migrant workers in the sample, the overall level educational attainment was notably lower than the average for the Kenyan labour force. A total of 16 per cent had a less than primary level of education, and 56 per cent had a primary level of education. However, while the collective share of these levels (72 per cent) is higher than the national average (54 per cent), the share of respondents with a tertiary level education was slightly higher than the Kenyan average (6.7 per cent versus 4 per cent). The gap is highest at the secondary level of education, which only 22 per cent of the sample had attained, compared to 40 per cent of the Kenyan labour force.

By migration status and length of stay, long-term migrant workers tended to have lower levels of educational attainment than short-term migrant workers (Figure 6). For instance, 26 per cent of long-term migrant workers with regular migration status had less than a primary level of education; 19 per cent had secured a secondary level of education; and 5 per cent had secured a tertiary education. This compares to 6 per cent of short-term migrant workers with a less than a primary level of education, 39 per cent with secondary, and 9 per cent with tertiary. The differences would be consistent with the notion that the short-term migrants interviewed as part of this research were more likely to be employees, with a secondary level of education or above, and in formal employment.

▶ **Figure 6.** Migrant worker's educational attainment, by migration status and length of stay (n=418)

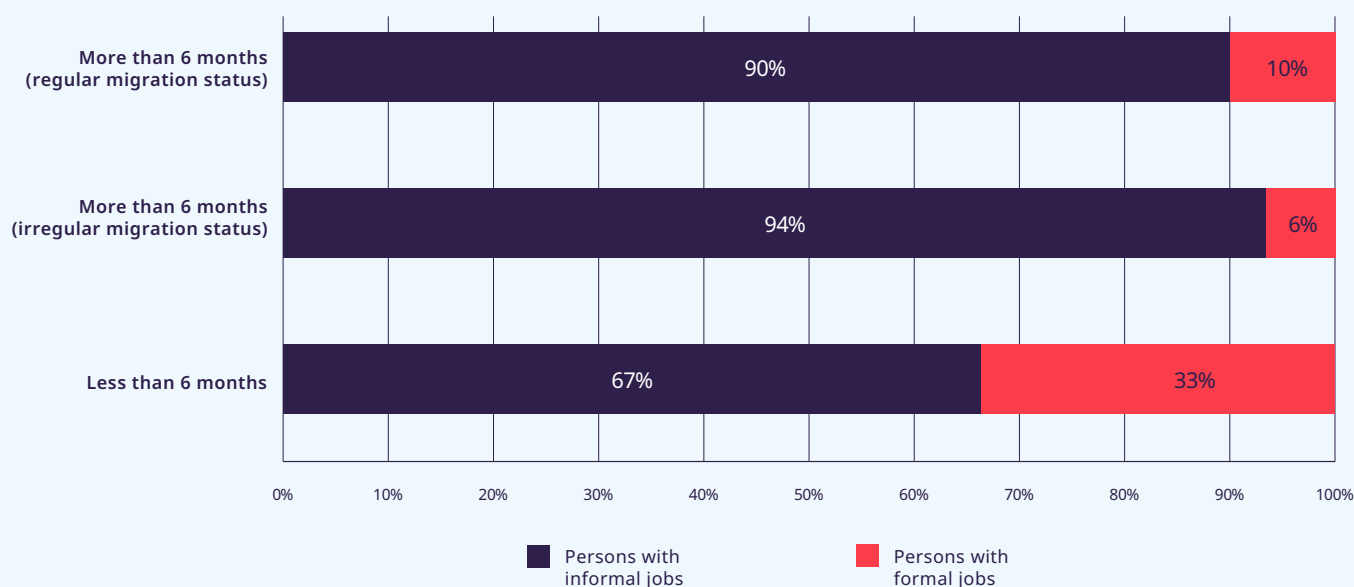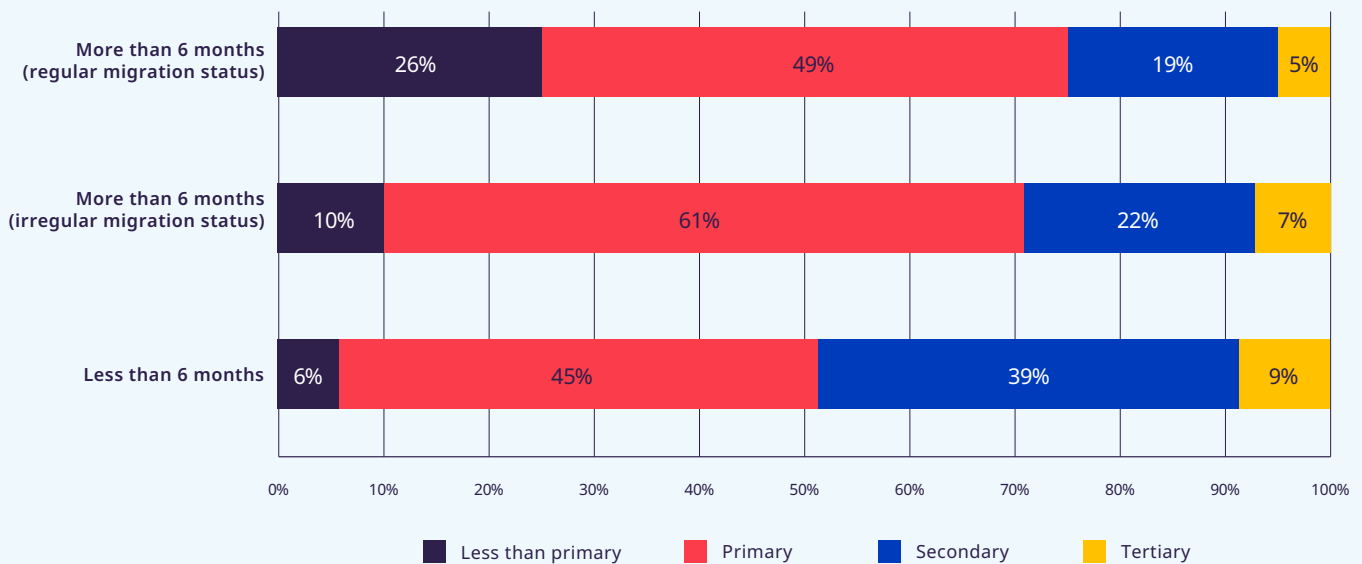Source: Primary quantitative data collection.

Occupational skill level of the migrant workers interviewed

Occupational skill level is calculated out of the total number of people in employment (n=339). Here, the majority of the migrant workers in the sample were in medium-skilled occupations (76 per cent) such as sales and service workers, with 14 per cent in low-skilled occupations (that is, elementary occupations) and 9 per cent in high skilled occupations, such as technical and professional associates. The shares varied by migration status and length of stay, with long-term migrant workers with regular migration status having the greatest likelihood of being in higher-skilled occupations (18 per cent), followed by short-term migrant workers at 11 per cent (Figure 7). Long-term migrant workers with irregular status were more likely to be in medium-skilled occupations (85 per cent). Low-skilled work was more prevalent for short-term migrant workers (22 per cent) and long-term migrant workers with regular migration status (17 per cent). The low proportion of migrant workers with irregular migration status in high-skilled occupations suggests that irregularity is an impediment to more productive jobs, even if most jobs available are informal.

▶ **Figure 7.** Occupational skill level of migrant workers, by migration status and length of stay (n=337)
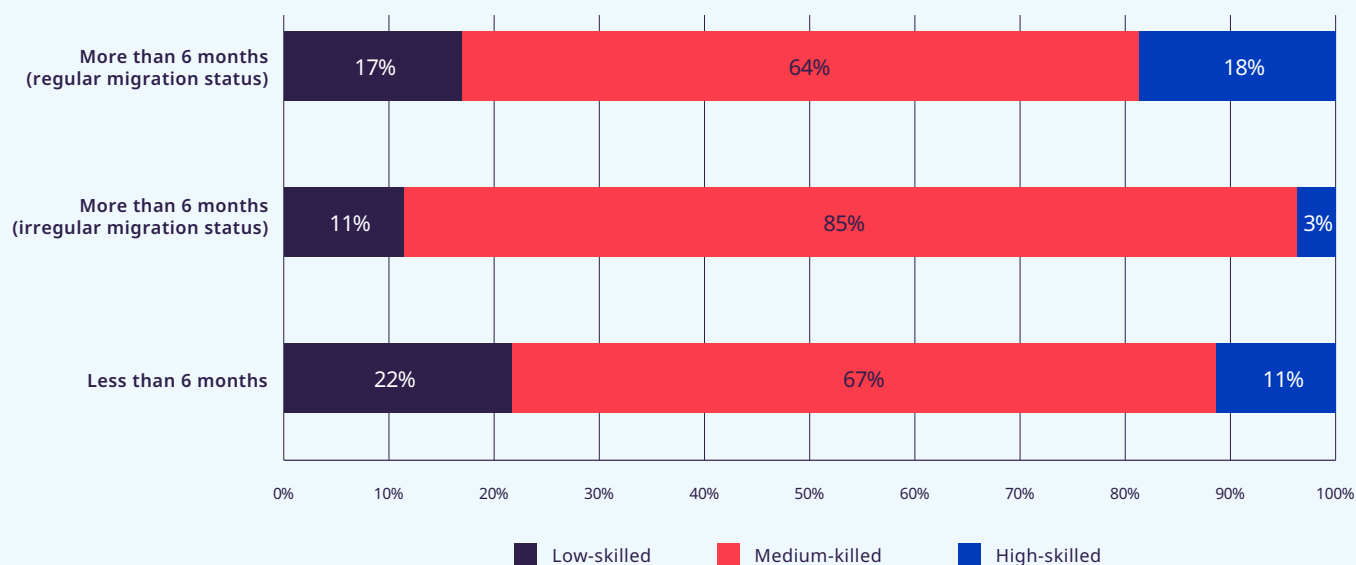
Source: Primary quantitative data collection.

The majority of men (52 per cent) and women (63 per cent) were working in the category of clerical, service and sales work (a medium-skilled category). According to key informant interviews, Nairobi represents a significant destination for female domestic workers and other service occupations, including sex work. The share of migrant workers engaged in highly skilled occupations such as managers, professionals and technicians was 11.4 per cent for men and 6.7 per cent for women.

"Many migrant workers in Kenya acquire low-skilled jobs, for example, bartenders, waiters, housekeepers, who might be on Kenyan soil illegally." – Key informant

According to the ILO (2020b), there has been a longstanding negative perception of technical and vocational education and training (TVET) in Kenya, and the Government has sought to address this by funding students in TVET institutions. Both quantitative and qualitative data collected as part of this research found that migrant workers often came with the intention of studying in Kenya, and subsequently finding work. Nonetheless, it is not clear the degree to which migrants can access TVET institutions. The ILO (2020b) does note that migrants and refugees have access to walk-in trade centres where individuals can be assessed for a particularly modularized skill or trade. [6]

▶ 4.4. Conclusions

The foregoing sections have highlighted that Kenya's labour market is very fragmented. Population growth over the last decades has placed enormous pressure on the labour market. With the population increasing across all age groups, many people have been added to the country's labour force, which is still characterized by fairly low levels

of educational attainment. While much of the Kenyan labour force is in the informal sector, so too are migrant workers. Nine out of ten migrant workers interviewed were operating in the informal economy, either by founding informal business units or by being informally employed in existing formal or informal businesses.

---

6   See ILO 2020b for a more detailed overview of migrant workers' access to services and recognition of qualifications and skills.

Chapter 5

▶ **Job creation
and the private
sector**

"Although Kenya's economy creates jobs, they [the jobs] are in the poorly paid informal sector. That is the challenge that policymakers need to address." – Focus group discussant

▶ registration of jobseekers and persons seeking internships;

▶ matching and placement of jobseekers and interns;

▶ registration of employers and employment agencies; and

▶ submission of returns (staff details) by employers and employment agencies.

Kenya has developed the Kenya Labour Market Information System (KLMIS), a one-stop shop for all labour market information. It presents information on both the demand for and supply of skills. The information presented is supposed to be relevant, accurate and up-to-date. However, due to various challenges, such as the cost of acquiring data, this information is not updated as often as it should be. Among the information available is a quarterly Job Opportunity Analysis, which provides information on the skills and occupations in high demand. However, this information captures mostly formal jobs in the top four major occupational groups under the Kenya National Occupational Classification Standard, namely: (i) legislators, administrators and managers; (ii) professionals; (iii) technicians and associate professionals; and (iv) secretarial, clerical, services and related workers. Kenya has also developed the National Employment Authority Integrated Management System, a web-based portal (www.neaims@go.ke) for the:

However, there is no breakdown to allow for identification of migrant workers within newly created employment in Kenya, and therefore once cannot use government data to find trends in migrant worker employment or where future employment opportunities for migrant workers might exist. Therefore this report seeks to gauge this by looking at what sectors are likely to see expansion, and on the basis of findings from key informant interviews and quantitative data collected as part of this study, ascertain the implications for migrant workers in these sectoral expansions. At the same time, the conduciveness of the business environment for growth is also considered through the lens of migrant workers, considering matters such as the rules for setting up businesses.

This chapter is structured as follows: Section 5.1. outlines what sectors are likely to see expansion in the medium term; Section 5.2. presents an overview of the private sector and the business environment in the country and the capacity for creating jobs; Section 5.3. concludes.

▶ 5.1. Sectoral growth initiatives and prospects

Kenya's steady economic growth in recent years has not yet led to traditionally anticipated structural changes in the economy, as reflected in the rapidly increasing share of agriculture in GDP, at 34.6 per cent in 2017, with declines in industry (including construction), manufacturing and services as a share of GDP (World Bank 2019a).

▶ 5.1.1. Services

Kenya's services sector constituted about 43.6 per cent of GDP in 2017, a steep drop from 48.1 per cent in GDP in 2010. The services sector is largely dominated by the tourism sector, which is well integrated into the rest of the economy. Tourism is Kenya's third-largest

source of foreign exchange and contributes significantly to employment. It has strong links to the rural economy that are most prominent in wildlife tourism (World Bank 2017b). Declines in tourism over the last decade have therefore worsened the services sector's contribution to the overall economy. Reasons for the tourist sector's decline include terrorist attacks that prompted travel restrictions and advisories, growing global competition, and unsustainable tourism development. There are deepening risks that Kenya's focus on tourist numbers rather than sustainability will continue to undermine the industry and limit its growth. Problems of congestion, overcrowding and ecosystem degradation in popular tourist spots may worsen as more tourist visits threaten habitats. Foreign tourist demand to visit Kenya is foreseen to decline further as the visitor experience is judged to be inferior to that offered in certain rival destinations (World Bank 2017b). Tourism did not feature in key informant interviews or the quantitative interviews as a sector that employs migrant workers. However, informal sales and service work was highlighted as an area for migrant workers. With this in mind, migrant workers are unlikely to contribute to growth of the tourism sector; however, spillovers from its expansion, such as linkages to other service activities, may result in jobs that are taken up by migrant workers.

▶ 5.1.2. Agriculture

Agriculture is the second-largest contributor to Kenya's GDP. In 2017 agriculture, including forestry and fishing, accounted for about 34.6 per cent of GDP, a significant increase from 24.8 per cent in 2010 (World Bank 2019a). This growth is largely due to favourable weather conditions in recent years – which have mitigated the risks of rain-fed agriculture – and the expansion of credit to the agricultural sector spurred by the country's agricultural development strategy for 2010–2020, which has reduced dramatic fluctuations in the prices of agricultural products (IFAD 2019). Agriculture accounts for more than half of Kenya's exports. Horticultural produce and tea are the main growth sectors and Kenya's two most valuable exports. However, Kenya is situated to be adversely affected by climate change. Nearly all the

country's crop production is rain-fed, and almost half of animal production occurs in arid and semi-arid lands. The growing impact of drought and unreliable rainfall are expected to significantly constrain the agriculture sector in the years to come (FAO n.d.). There is evidence from primary data collected as part of this study that migrant workers are engaged in agricultural activities, predominantly as seasonal manual labour. Unlike some other areas in the IGAD region, such as in the Eastern States of Sudan, there is not an explicit reliance on migrant workers for seasonal agricultural activities in Kenya.

While the agriculture sector is growing, Kenya's industrial sector is shrinking; although it still remains the most developed in East Africa. It accounted for 16.5 per cent of GDP in 2017, down from 18.5 per cent of GDP in 2010. Manufacturing as part of industry accounted for only 7.9 per cent of GDP, a decrease of 3.4 percentage points since 2010. According to the World Bank (2018), the manufacturing sector is hampered by shortages in electricity, high energy costs, rundown transport infrastructure, and the clearance of cheap imports that compete with locally manufactured goods. Manufacturing activity has been concentrated to date around the three largest urban centres (Nairobi, Mombasa and Kisumu) and is dominated by food-processing industries such as grain milling, beer production, sugarcane crushing and the fabrication of consumer goods. In addition, a substantial and expanding informal sector engages in small-scale manufacturing of household goods, motor-vehicle parts and farm implements. About half of the investment in the industrial sector is foreign, with Germany, Japan and the United Kingdom all providing significant shares (CIA n.d.).

▶ 5.1.3. Industry

While the focus of industrialization is often on the shift from agriculture to industry (particularly manufacturing) to services, as well as replicating the export-driven success of East and South-East Asia, increasingly research is showing that alternative approaches have the potential for Kenya and other Sub-Saharan African economies to industrialize without following the same model. It is argued that

subsectors in agriculture and services share some of the same beneficial characteristics as manufacturing, such as offering potential for higher value added per worker and being able to benefit from technological advancement. They, therefore, can reap many of the industrialization benefits that are typically associated with manufacturing (Page 2018). In Kenya, two of these more promising sectors include information and communication technology (ICT) and horticulture. From this perspective, the potential growth sectors that will support economic transformation match better with Kenya's strengths. The degree to which migrant workers play a role in this depend on the ease of doing business for migrant workers and the attractiveness of the business environment for highly skilled migrant workers, particularly foreign investors.

▶ 5.2. Private sector and business environment

Most of Kenya's private sector businesses (44.9 per cent) are micro- and small-sized businesses. Based on information presented in Kenya's Economic Survey, only about 3 per cent of existing businesses employ 50 people or more (KNBS 2019b). Many of Kenya's micro- and small-sized businesses operate in the informal sector and are necessity-driven (meaning people start a business due to a lack of other opportunities) rather than opportunity-driven, where people start a business on the premise of clearly identified opportunities in the economy. Although many Kenyan entrepreneurs have the ambition to start businesses, many start-ups either quickly close or stagnate at a small size (Techsnich 2019).

KenInvest is the body responsible for encouraging foreign investment in Kenya. It is mandated under the Investment Promotion Act, 2004, to facilitate processes for foreign investors looking to invest at least the equivalent of US$100,000. KenInvest assists with permits and visas, through which businessmen are able to enter for short-term business trips with single-entry visas (which include re-entry to Kenya from United Republic of Tanzania and Uganda). KenInvest also provides information around the hiring of labour, and stipulates that the hiring of any expatriates is permitted provided no Kenyan is available with the required skillset. KenInvest also highlights the country's relatively high levels of education and the highly skilled workforce available (KenInvest n.d.).

"In terms of job creation, investors are allowed to venture into businesses that provide job opportunities to Kenyans first. In addition, any company that the foreigners operate must have Kenyans on the board of directors to spearhead and protect the needs of Kenyans." – Key informant

In 2018, Kenya ranked 61st in the World Bank's Ease of Doing Business rating, up from 80th in 2017 (out of 190 countries) (World Bank 2018c). The Doing Business Index measures aspects of regulation that affect the life of a business including:

▶ starting a business;

▶ dealing with construction permits;

▶ getting electricity;

▶ registering property;

▶ getting credit;

▶ protecting minority investors;

▶ paying taxes;

▶ trading across borders;

▶ enforcing contracts; and

▶ resolving insolvency.

The Government has proactively formulated strategies to quicken the processes of starting a business, and these efforts were recognized in the World Bank's 2017 Doing Business report.

Kenya has also established "Buy Kenya – Build Kenya" policies to increase small- and medium-sized enterprise (SME) engagement in public procurement, providing additional research and development support and reinforcing increased access to finance. The Government has also created several targeted funds to encourage entrepreneurship and business growth, including the Youth Enterprise Development Fund, Women Enterprise Fund, and National Affirmative Action Fund. Furthermore, youth and women have been given preferential treatment on public sector procurements (migrant workers have not been featured). Agricultural Finance Corporation loans and Kenya Industrial

Estates loans are also available. There is limited evidence, however, concerning the economic impacts of these funds.

Government policy has not been universally facilitative to private enterprise, however. For example, the 2016 Banking Act limited the interest rates that banks could charge on lending to SMEs. While intending to have a beneficial impact this led to a significant reduction in the credit allocated to the private sector (Central Bank of Kenya 2018). While it may soon be repealed (Vollgraaf 2019), the Act currently remains in place. In terms of migrant workers and access to finance, migrant workers with regular migration status have the same access as Kenyans, but given the largely informal nature of migrant worker-created businesses, the majority are likely to rely instead on informal channels for accessing finance.

▶ 5.3. Conclusions

It is difficult to precisely understand job growth patterns in economic sectors and geographical pockets of Kenya due to shortfalls in labour statistics and analysis. Based on the information available, economic performance in the industrial sector has been declining in recent years. While Kenya's competitiveness in ICT and certain agricultural sectors is a strength, it may not be enough to generate sufficient growth of decent jobs in productive sectors of the economy.

The analyses demonstrate that micro and small businesses comprise a substantial proportion of Kenya's economy and they typically do not expand significantly enough to create decent and productive jobs. This has important implications for Kenya's economic and social development. Although the latest World Bank Doing Business report praises Kenya's investment-friendly environment, there is limited evidence on the impacts of initiated reforms to support private sector development.

Chapter 6

▶ **Improved governance for employment and job promotion**

Effective and appropriate labour market governance is imperative to the good functioning of labour markets (see box 2). The effectiveness of labour market governance rests largely on the availability of regular, up-to-date and comprehensive labour market statistics and information. Migrant workers are also a crucial consideration in labour market governance, but they also occupy a space that is covered by labour migration governance. This chapter provides a critical assessment of select labour market governance mechanisms (employment policy, labour market information, employment services and migrant workers) related to employment and job promotion, and how each can contribute to improved productive opportunities.

▶ **Box 2. Labour market governance**

Labour market governance refers to both employment governance and labour governance. The former is focused on pro-employment management and strategy and how to create decent and productive jobs; while the latter is focused more on the relationship between employers and employees, encompassing workers' rights, social protection, occupational safety and health. The traditional approach is to focus on:

i.   human capital development, including skills development and improved capacity of the workforce, and/or

ii.   private sector development, including business environment reforms and other policies designed to facilitate business growth.

These two approaches can be considered as supply-side and demand-side, respectively. Labour market governance is imperative to the success of each of these approaches and helps to find the appropriate balance.

This chapter is structured as follows: Section 6.1. provides an overview on Kenya's employment policy and legislation; Section 6.2. provides a critical assessment of labour market information; Section 6.3. presents an overview of the effectiveness of employment services with regard to job-matching; Section 6.4. looks at migrant workers in a labour market governance context and in relation to employment and job creation; and Section 6.5. concludes.

▶ 6.1. Employment policy and legislation

Since independence, the creation of productive and sustainable employment opportunities has been a central policy priority of Kenya's Government, most recently with Vision 2030. A number of policy interventions have been formulated to create more jobs and protect labour in the country. However, regardless of these policies and interventions, the creation of adequate, productive and sustainable employment remains a significant economic challenge for Kenya.

The country's long-term development blueprint – Vision 2030 – is implemented through a series of five-year Medium Term Plans (MTPs). So far, Vision 2030 has not specifically addressed migrant workers issues, nor does it highlight the benefits that migrant workers bring to the country's economic, social and political development. With regard to labour migration, references are only made to the importance of remittances from Kenyans residing abroad. Labour and labour migration matters did, however, received

more attention under the Second MTP 2013–2017. Under this MTP, a number of key policy legal and institutional reforms were initiated, and a total of four labour and employment policies were developed:

▶ Sessional Paper No. 2 of 2013 on Industrial Training and Attachment Policy;

▶ Sessional Paper No. 3 of 2013 on National Productivity Policy;

▶ Sessional Paper No. 4 of 2013 on Employment Policy and Strategy for Kenya; and

▶ Sessional Paper No. 1 of 2015 on National Policy on Elimination of Child Labour.

Under the Second MTP the National Employment Authority Act, 2016, was decreed, creating the National Employment Authority (NEA). The NEA is mandated to:

▶ provide a comprehensive institutional framework for employment management;

▶ enhance employment promotion interventions; and

▶ enhance access to employment for youth, minorities and marginalized groups and for connected purposes.

The functions of the NEA are provided under section 8 of the NEA Act, 2016, as follow:

a. Advise on formulation of employment policies and strategies for national and county governments;

b. Advise both the national and county governments on any policy matter concerning employment;

c. Develop methodologies for employment measurement, management and promotion;

d. Conduct periodic surveys on labour market skills requirements and advise training institutions and jobseekers appropriately to ensure that training and skills match the job market requirements;

e. Monitor implementation of employment policies and programmes;

f. Facilitate cooperation with national government, the private sector, the informal sector and foreign governments and institutions to promote and increase access to employment;

g. Facilitate continuous training and other activities of Kenyans to improve their chances of employment and work skills;

h. Register persons seeking employment;

i. Maintain an integrated and up-to-date database of all persons seeking employment;

j. Facilitate the employment and placement of jobseekers in formal and informal or any other form of employment, locally and internationally;

k. Circulate in a timely manner job vacancies advertised to jobseekers throughout Kenya through appropriate means including use of social media, internet and published materials;

l. Provide counselling to the unemployed and undertake activities to promote employment;

m. Facilitate the implementation of national policies on employment;

n. Take necessary steps to encourage equal opportunity employment practices for the benefit of the unemployed.

It needs to be highlighted that the NEA addresses migrant worker issues but predominantly from an outbound migration perspective, and it does not adequately consider migrant workers in Kenya's labour market. Instead, the focus, for instance, as reflected in the Kenya Labour Migration Information website (www.kenyamigrantworker.org), is on regulating the export of Kenyan migrant workers to the Gulf States of Qatar, Saudi Arabia and United Arab Emirates. Notably, there is no information on this site of the emigration of Kenyan's to African, European and other countries for employment.

Kenya has not ratified Employment Policy Convention, 1964 (No. 122), however the General Survey on Certain Instruments Related to the Strategic Objective of

Employment report to be published by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in 2020 will provide an opportunity to assess the degree to which Kenya complies with components of Convention No. 122 and other employment-related Conventions.

Regarding the eight ILO fundamental Conventions, Kenya has ratified seven (table 5). Principles of each of the ratified Conventions are covered in its Employment Act, 2007, along with the Labour Institutions Act, 2007, and the Labour Relations Act, 2007. Kenya is yet to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); despite this, freedom of association and the right to organize are addressed and permitted as outlined in the aforementioned acts – particularly the Labour Relations Act. Migrant workers are permitted to join trade unions, but according to interview findings, migrants tend not to join them or they establish their own informal groups. Key informants indicated there were plans to ratify the Domestic Workers Convention, 2011 (No. 189).

Regarding Kenya's adherence to the ILO fundamental Conventions, the main concerns of the CEACR are around child labour and forced labour. CEACR comments on child labour incidence draw from work by the ILO–International Programme on the Elimination of Child Labour (IPEC), which has found regular incidence of child labour, particularly in agriculture and contributing family work (ILO 2019a). Concerning forced labour in prisons, the CEACR cites concern over the use of compulsory labour as a punishment for the expression of political views (ILO 2019b).

▶ **Table 5.** Kenya's ratification of ILO Conventions

Fundamental Conventions	Status
Forced Labour Convention, 1930 (No. 29)	In force (1964)
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	Not ratified
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	In force (1964)
Equal Remuneration Convention, 1951 (No. 100)	In force (2001)
Abolition of Forced Labour Convention, 1957 (No. 105)	In force (1964)
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	In force (2001)
Minimum Age Convention, 1973 (No. 138)	In force (1979)
Worst Forms of Child Labour Convention, 1999 (No. 182)	In force (2001)
Other relevant Conventions	**Status**
Migration for Employment Convention (Revised), 1949 (No. 97)	Not ratified
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	In force (1965)
Private Employment Agencies Convention, 1997 (No. 181)	In force (1979)
Domestic Workers Convention, 2011 (No. 189)	Not ratified

Source: ILO n.d.-b.

▶ 6.2. Labour market information

A subset of labour market governance, labour market information provides the foundation for effective and evidence-based labour market governance and for labour migration and mobility governance. Systematic labour market information and analysis refers to institutional mechanisms that:

i.   collect and compile data and information relevant to the labour market;

ii.   act as a repository for such information;

iii.   provide analytical capacities and tools; and

iv.   facilitate institutional arrangements and networks. [7]

Kenya has made considerable progress with regards to establishing processes for systematic labour market information and analysis, notably through the establishment of the KLMIS, but there is still considerable room for improvement if these data are to meet the needs of evidence-based policy making.

In terms of information on labour supply in Kenya, the main source of data is from a labour module of the Economic Surveys and the Survey of Outturns from Local Training Institutions. The Economic Surveys generate annual reports containing data from a range of sources. Please note the following:

▶ The source of labour information in the Economic Survey publications is the establishment-based annual survey of employment and earnings in the "modern sector" (that is, the industrial sector). The establishments are drawn from the Central Business Register maintained by the Kenya National Bureau of Statistics (KNBS). Data refers to employment and earnings as of the 30 June every year. Information on persons engaged in the informal sector is estimated.

▶ Currently, KNBS is collecting labour market information in the Kenya Continuous Household Survey programme, which has a labour module. Data is analysed to provide quarterly indicators. More detailed indicators will be provided in the annual report.

A standalone labour force survey was prioritized in Kenya's Sector Plan for Labour and Employment (2013–2017) (Government of Kenya 2013b), however key informants suggested that the KNBS – who would be responsible for any such survey – is instead focused more on regular publication of the data from the Economic Surveys labour module, mainly for cost reasons (stand-alone labour force surveys are expensive) and with an eye to providing information on labour market dynamics. In this regard, the information is certainly valuable, but a stand-alone labour force survey – which was planned under the Second MTP but eventually abandoned due to lack of budgetary provision – would allow for gaps to be closed in terms of detailed occupational and sectoral analysis and other labour market variables.

The Kenya Integrated Household Budget Survey (KIHBS) is another source of labour supply data. The last survey was conducted in 2015–16 and contained detailed information on its methodological approach. The survey provides information on headline indicators, including economic activity, employment, unemployment and underemployment. However, the main limitation of the KIHBS for providing labour market data is that it does not comply with international standards for labour market statistics. The KIHBS 2015–16 report itself notes this limitation, citing that future studies need to be conducted more frequently; that they also should comply with the 19th ICLS standards; and that they should offer more granularity in data, particularly on informality and occupations. The sample was also small, having interviewed only 21,773 households, thereby limiting the scope for detailed breakdowns.

---

7   Adapted from ILO n.d.-b.

Regarding migrant workers, the data from the Economic Surveys capture information on migrant permits and applications, such as passports, work permits and foreign nationals registered, but do not provide a breakdown of labour market variables by migrant status (KNBS 2019). The last labour force survey, which was conducted in 1999, had questions on place of birth, but it is too out of date for any analysis on migrant workers. Since then, the Population and Housing Census was conducted in 2009, which contained information on migrants in Kenya and more detailed questions on emigrants. It allows for comparison of different types of migrants, such as by length of stay, and provides a breakdown of levels of educational attainment, location, and economic activity. The Population and Housing Census 2019 has also been completed; however, the release of data has been incremental and the sections on migration were not released at the time of the writing of this report.

There have been developments in Kenya in terms of enhancing migration data, particularly through the European Union-funded International Centre for Migration Policy Development MIEUX Action for Kenya on data management. As detailed by a recent ILO (2020a) study, a fact-finding mission conducted under this project found that while considerable data existed documenting cross-border movements and permits and official registrations, only data for regular migrant workers existed and was limited to administrative data, such as employer and

location of work. More comprehensive and systematic data collection was cited to be needed on both formal and informal migrant workers and their role in the labour market to inform evidence-based policymaking on the labour market. Key informants did suggest that there are plans by the NEA to develop an information system or database on migrant workers to facilitate policymaking, although little concrete information was provided.

In terms of labour demand, Kenya has been lauded for its development of the Kenya Labour Market Information System (KLMIS). Among others, the KLMIS presents vacancies data drawn from job vacancies published on its website and also in selected publications. It presents this information on a quarterly basis, highlighting the occupations and skills most in demand based on these sources. While this information is certainly useful, particularly with regards to viewing changes over time, the underlying data presents a limited scope of labour demand. Further, the data clearly shows a tendency towards higher-skilled occupations that are presumably more likely to be advertised in these forums.

The KNBS conducted a Census of Establishments in 2017 and reportedly has recently completed a similar census for micro and small enterprises. However, the main limitation is that it only collects data on formal enterprises. The survey does consider foreign ownership and the offices of foreign enterprises, but provides no indication with regards to the nationality of workers.

▶ 6.3. Employment services

Employment services play a critical role in the effective and efficient organization of the labour market, with a long-term goal of full and productive employment. Employment services in the context of Kenya can assist in the implementation of employment policies, in the provision of labour market information analysis, and in matching services promoting formalized employment. Kenya has ratified the Employment Service Convention, 1948 (No. 88), but not the Private Employment Agencies Convention, 1997 (No. 181). The NEA, as part of the Ministry of Labour and Social

Protection, provides the country's public employment services and also oversees the registration of private employment agencies and management of foreign employment.

Employment services are defined by the National Employment Authority

In terms of public employment services, the NEA provides the following services:

▶ the registration of Kenyans seeking employment;

- ▶ linking jobseekers with job opportunities;

- ▶ assisting employers to acquire workers with appropriate skill sets;

- ▶ the provision of labour market information on employment matters;

- ▶ the provision of occupational and vocational guidance and counselling; and

- ▶ the provision of advisory services on policy issues touching on employment.

Special programmes for supporting new graduates are due to be developed under the Third MTP 2018–2022, with guidance and counselling services that will also be enhanced to enable jobseekers to develop occupational awareness and make appropriate and informed job choices (Government of Kenya 2018). The employment services will also promote the introduction of an internship programme under which trainees will be introduced to the working world. Further, job fairs that bring together employers, jobseekers and other labour market actors will be organized to facilitate promotion of available employment opportunities, skills, recruitment procedures and other workplace dynamics.

A number of key informant interviews cited how the NEA sometimes collaborates with ministries, such as working with the Ministry of Health to help recruit health professionals to fill skills gaps. This has been the case with sending health professionals to other African countries in response to the Ebola crisis and also bringing in doctors from abroad (mostly Cuban) following strikes by Kenyan health professionals. Besides this, key informant interviews suggest that migrant workers do not use public employment services, and instead most will use private employment agencies.

National Employment Authority regulation of private employment agencies

Another core role of the NEA is to govern private employment agencies. This includes the registration and regulation of these agencies as well as inspection to ensure compliance. Private employment agencies are commonplace in Kenya, both for domestic placements (particularly medium- and -higher skilled placements, according to key informants) and overseas placements.

Modalities for overseas placement

Overseas placement is a priority area for the NEA. A number of key informant interviews cited that the regulation of private employment agencies was one of the Government's priorities in terms of labour migration. According to the ILO (2020a), the Central Organization of Trade Unions and the Federation of Kenya Employers form part of a task force under the National Labour Board that deals with migration issues. This task force has been instrumental in influencing the regulation of private employment agencies, including the deregistration of agencies until they have been vetted. The institution of the vetting process accompanied the introduction of the 2016 Code of Conduct for Private Recruitment Agencies, which was developed between the Government and a number of private employment agency bodies. The Code of Conduct is focused on the protection of Kenyan migrant workers abroad, particularly in the Middle East.

The fee for placement services – whether for work in Kenya or abroad – is capped at one month of the proposed worker's salary, according to the Labour Institutions (Private Employment Agencies) Regulation, 2016. However, the Act does not stipulate that all such costs should be borne by the employer, and instead highlights that a "foreign contract of employment shall specify the party responsible for the payment of (a) the visa fee; (b) airfare; and (c) medical examination" (section 8). Globally, such fees when directly or indirectly imposed on migrant workers contribute to situations of vulnerability and exploitation, and Kenya is no such exception. Key informants highlighted the risks of unregulated private employment agencies operating that deceive Kenyans into situations of forced labour and trafficking on false premises of employment overseas.

▶ 6.4. Migrant workers

For a comprehensive overview of labour migration and mobility governance in Kenya, detailed information is provided in the parallel study "An assessment of labour migration and mobility governance in the IGAD region: Country report for Kenya" (ILO 2020a). Certain key findings from ILO (2020a) are highlighted in this section.

▶ 6.4.1. Labour market functionality

The Third MTP 2018–2022 acknowledges the "inadequate framework to regulate and manage labour migration" as one of Kenya's key challenges (Government of Kenya 2018, 32). The Third MTP highlights as a policy priority the need to finalize the Labour Migration Policy and the Labour Migration Governance Act (which are currently at the draft level) to provide a policy and legal framework for the management of labour migration. Alongside this, the Plan seeks to develop and implement a policy to govern the collection, analysis, storage, retrieval and dissemination of labour market information. This policy will guide the development of a National Labour Market Information System and involve development of modules for facilitating information exchange between the EAC Partner States, migrant workers and the Kenyan diaspora.

A challenge is that while Kenya is making headway with regards to collection and publication of labour market statistics, including to some degree on the informal economy, there is insufficient information to ascertain the role of migrant workers in the labour market. As a result, the ability to inform policymaking around the labour market and labour migration to the benefit of the functionality of the labour market is compromised by this lack of data. The draft National Labour Migration Policy and Strategy for Kenya does, however, call for linkages with research institutions and the providing of incentives to conduct studies on labour migration issues, which would help close evidence gaps (ILO 2020a). Nonetheless, more systematic collection of data is required.

"The legal framework for [the] labour market that exist[s] in this country is migration policy, which is widely used without being clearly defined. The policy has a lot of restrictions, including migration regulation, restriction and control, and thus does not provide free movement in the labour as such."
– Key informant

In the absence of a labour migration policy, key informant interviews have suggested that the Government's approach has largely been to facilitate the inflow of higher-skilled migrant workers. The work permit process supports this notion. It suggests that unskilled migrant workers can be considered in low demand in Kenya's economy – likely a reflection of the need to protect jobs for unskilled Kenyans. Key informant interviews sometimes cited how Kenya's approach to migration does not protect Kenyan workers enough. For instance, large companies are permitted to hire workers from abroad for manual work rather than hiring locals. Although this was mostly cited in the context of China, rather than other IGAD Member States.

"This existing legislation unfortunately does not favour host communities or locals and undermines job creation initiative[s] as migrants sometimes work in manual jobs that would have been done by the local. For example, during the construction of Standard Gauge Railway, the Chinese were employing masons and labour from China as opposed to Kenyans." – Key informant

As a member of the EAC, Kenya adopted the EAC Common Market Protocol, which allows the free movement of EAC nationals among the six partner countries: Burundi, Kenya, Rwanda, South Sudan, Uganda and the United Republic of Tanzania. Kenya is also a member of the Northern Corridor Integration Programme, which allows the use of identity cards for travel within the Partner States of Kenya, Rwanda and Uganda, as well as within the Common Market for Eastern and Southern Africa (COMESA) and IGAD. The National Coordination Mechanism on Migration (NCM) in Kenya is facilitated through the IGAD Regional Consultative Process on Migration.

Membership in these regional bodies facilitates various degrees of free movement from neighbouring countries, but according to key informant interviews, it does not always correspond to free movement of labour. Work permit requirements, for instance, can present obstacles, resulting in migrant workers taking to the informal sector. In terms of outbound migration, the main focus of the Government, particularly as drawn from the MTPs, is on protection of Kenyan migrant workers abroad (see Section 6.1. on Employment policy and legislation and Section 6.3. on Employment services), with little policy direction on the potential skill losses from outbound migrant workers or on leveraging the skills of returnees. Both of these issues point to the need for a regional labour migration policy to facilitate skills recognition systems and the matching of supply and demand for labour.

The Refugees Act, 2006, sets out the legal and institutional framework for managing refugee affairs in Kenya and makes it an offence for refugees to live and work outside refugee camps or transit centres without permission from the Government. While the Act was largely welcomed by civil society, it has been undermined by a lack of institutional capacity and lacks the necessary steps for its implementation. In practice, this means that many refugees have different types of documentation and many are actually working informally. The Department of Immigration issues work permits to those who have been granted refugee status in Kenya in accordance with the Refugees Act as well as to the spouse of such a refugee who intends to take up employment or engage in a specific occupation, trade, business or profession.

Labour migration governance should in theory be able to support the labour market by allowing for management of mismatches between labour supply and demand, particularly around skills. As detailed in the previous section, while there are signs of marked improvements with regard to labour market information, a consolidated database of skills composition and needs is lacking. Moreover, there is a shortage of information on the skills composition of irregular migrant workers – both for Kenyans abroad and migrant workers in Kenya. Such information would need to feed into labour migration management. Harmonization of qualifications, curricula and accreditation across IGAD Member States would facilitate regional labour migration management.

▶ 6.4.2. Equal treatment of migrant workers

For migrant workers to contribute positively to the Kenyan labour market and to facilitate their integration into Kenyan society, there is a need for the protection and equal treatment of migrant workers. Regular migrant workers have the same rights as Kenyan nationals under the Employment Act, 2007. A number of mechanisms are currently in place, including regulations on:

▶ the entry and departure of foreigners;

▶ work permits, visas and the responsible authorities;

▶ rules, rights and obligations of refugees and asylum-seekers; and

▶ recruitment, placement, conditions, costs and awareness raising for those seeking and going abroad for employment.

▶ **Box 3. Equality of opportunity and treatment for migrant workers with nationals**

Article 6(1) of the ILO Migration for Employment Convention (Revised), 1949 (No. 97), provides that each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of: remuneration, membership of trade unions and rights to collective bargaining, accommodation, social security, employment taxes and legal proceedings related to matters referred to in this Convention.

Article 10 of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), (Part II on Equality of Opportunity and Treatment) provides that: "Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory."

Source: ILO Conventions Nos 97 and 143.

The Employment Act, 2007, states that it is the "duty of the Minister, labour officers and the Industrial Court … to promote equality of opportunity in employment in order to eliminate discrimination in employment; and … to promote and guarantee equality of opportunity for a person who is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya" (section 5(1)). This is reflective of the recognition of only those migrant workers who have regular migration status, meaning that the scores of migrants who either enter on an irregular basis or work irregularly are outside the scope of the Employment Act. Given the preference afforded to higher skilled migrant workers when it comes to obtaining work permits (as outlined in the previous sub-section), it suggests that the vast majority of migrant workers do not have access to any legal recourse and rights. This leaves these migrant workers highly vulnerable to exploitation and poorer working conditions than their regular and Kenyan counterparts. Key informant interviews suggested that there is no difference in the treatment of migrant workers and Kenyans in the workplace, but often with the caveat that they were talking about regular migrant workers only.

"There are gaps in implementation of the existing laws, this exposes migrant workers to exploitation in the hands of rogue employers."– Key informant

The Government has ratified the Migration for Employment Convention (Revised), 1949 (No. 97), as well as the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which concern themselves with migration under abusive conditions as well as the promotion of equality of opportunity for and treatment of migrant workers. However, Kenya has not ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, 1990. Key informants indicated that the Government has plans to ratify ILO Conventions related to labour migration, including the Domestic Workers Convention, 2011 (No. 189).

The CEACR published an in-depth General Survey Concerning the Migrant Workers Instruments in 2016 (ILO 2016). The report

applauded Kenya's inclusion of articles prohibiting direct and indirect discrimination on the basis of nationality in the Employment Act (as detailed above). It also noted a response by the Kenyan Government to the administrative challenges of irregular migration, referring to "obstacles relating to the lack of an enabling legal infrastructure to fully ensure implementation, including necessary technical capabilities for the management of labour migration" (ILO 2016, para. 544).

Kenya also has several bilateral agreements and memoranda of understanding (MOUs) regarding labour migration-related issues, such as the two MOUs signed with Germany in 2017, one of which addresses skills development for Kenyan youth to meet job market requirements in Germany. Also in 2017, Kenya signed bilateral labour agreements with the Qatar, Saudi Arabia and the United Arab Emirates on the welfare and protection of migrant workers from Kenya.

▶ 6.5. Conclusions

Kenya has adopted a wide range of international labour standards. They are providing the basis for the development of labour legislation in the country. However, as one can see from the findings in the foregoing sections, although well intentioned, labour market governance instruments lack a strong evidence base from comprehensive labour market information. While labour supply side statistics focus largely on unemployment and wage employment, demand side statistics are especially scarce, hindering the ability to monitor and inform evidence-based policies interventions that can foster decent and productive employment for both Kenyans and migrant workers. There are signs in the Third MTP of improvements with regard to labour migration policy and also labour market policies, but it will be imperative that the two are aligned.

Chapter 7

▶ **Conclusions and recommendations**

Kenya's strong economic growth in recent years has not been driven by structural transition towards higher productivity. Although the Government of Kenya has made strides in improving the business environment to make Kenya more attractive to investment, the lack of infrastructure is still a major impediment to the business environment. While investment in infrastructure has been substantial and has raised the contribution of gross fixed capital formation to GDP, the more sustainable gains to the economy from increased private sector development and subsequent job creation are yet to materialize.

Kenya has a highly dual labour market between the informal and formal sectors, and migrant workers are present in both. Over the last decade, a pronounced labour market dichotomy has developed between a fairly well-regulated formal sector with higher levels of wage and salaried employment and a more informal sector with lower levels of wage and salaried employment. Working conditions in the first segment are generally regulated, but it has generated relatively few new jobs during the last decade. Many jobs in the formal sector are also created informally and hence are not covered by any form of labour legislation and protection. Most new jobs in Kenya are created in the mainly informal, low-wage labour market segment with little job security and labour protection.

Strategic recommendation 1: Improve labour market information around migrant workers.

The most overarching shortfall is the lack of comprehensive, up-to-date and reliable information on migrant workers and their role in the labour market that can be mainstreamed throughout government policies. Existing policies and programmes are largely based on insufficient and/or inappropriate labour statistics, including ad-hoc analyses that fail to go sufficiently beyond the employment/unemployment dichotomy and that are not available for specific sectors, regions and districts. The labour statistics that are collected are duplicative and are only partially in line with the recommended statistical standards. Overall, the labour market statistics currently collected are insufficient to enable monitoring and analysis of situations and trends in the labour market to the level of detail needed to inform policies. Accordingly, recommended points of action include the following:

Recommended action	Anticipated benefit	Relevant bodies
POLICY: Strengthen the evidence base for labour market governance with a new labour statistics framework. This entails the design of a national labour statistics framework that collects key labour market indicators on a regular basis, in line with ICLS standards.	To improve the timeliness of labour market information to help monitor and guide employment policies and strategies. Such a system would allow for job creation objectives and targets to be monitored and financing and policies adjusted accordingly. A regular process of data collection is a necessary requirement for the formulation of effective policies according to the changing labour market and to allow for timely adjustment.	Government in a tripartite setting (led by KNBS)
POLICY: Pay special attention in the labour statistics framework to capture key information on migrant workers.	To capture information on migrant worker flows and characteristics for the benefit of evidence-based policymaking.	Government in a tripartite setting (led by KNBS)

Recommended action	Anticipated benefit	Relevant bodies
POLICY: Provide technical expert advice and support to the improvement of labour market information and analysis, particularly around migrant worker data.	To help ensure compliance with international standards and international best practice, for the improvement of labour market information and analysis.	Other stakeholders
INTERVENTION: Implement another labour force survey and ensure a labour migration module is incorporated into this.	To allow for identification of migrant workers' countries of origin as well as a more comprehensive set of statistics and information.	Government
POLICY: Feature enhanced data collection and analysis on migrant workers in national development planning and make it more explicit as part of wider strategies to strengthen labour market information.	To better inform and monitor evidence-based and harmonized employment and labour migration policies.	Government
INTERVENTION: Encourage, facilitate and disseminate third party research using the labour market information collected, including by sharing the microdata.	Other key stakeholders, particularly those working with labour market statistics and in particular statistics on migrant workers, should be able to access the labour market information collected, and the dissemination of findings in the public sphere should be encouraged to allow for improvements and changes to be made to labour market and labour migration governance.	Government and other stakeholders

Strategic recommendation 2: Migrant workers need to be better integrated into coherent employment and labour market policies.

Kenya currently hosts around a quarter of the official migrant stock of IGAD migrants, which is likely much higher if irregular migrants are taken into account. All these migrants have to make a living, and many participate in Kenya's labour market. The analysis in this report finds that most migrant workers in Kenya work in the informal economy, which is no different from the Kenyan population. However, there are no targeted interventions to integrate migrant workers into Kenya's labour market. Contributing factors include weak employment and labour governance mechanisms, which ultimately augment labour migration and labour protection violations.

Maximizing the positive impacts that the various types of migrant workers have on Kenya's labour market will require appropriate and comprehensive information on the nature of migrant workers, existing labour market dynamics, and effective and efficient governance mechanisms. Against this backdrop, labour migration needs to be well governed to be beneficial for Kenya's development in the long run (that is, through flexible labour policies that target skill gaps and labour shortages). Accordingly, points of action include the following:

Recommended action	Anticipated benefit	Relevant bodies
POLICY: Embed migrant workers issues into the national development agenda.	Linking migration policies with Kenya's employment/job agenda should support long-term labour force dynamics without negatively affecting national workers. Migrant workers issues should not only be seen as part of general migration policies that tend to focus on the legalization of migration in and outflows.	Government in a tripartite setting
POLICY: Increase the quality of the labour market integration of migrant workers.	Given that many migrant workers in Kenya have an irregular migration status and work informally, policies should ease their labour market integration and devise measures to allow them to operate formally. Policies that support migrant businesses could be a good way to stimulate formal private sector growth and increase employment opportunities for Kenyans. Policies that achieve this will also lead to increased net fiscal contributions of migrant workers, if well governed.	Government in a tripartite setting
INTERVENTION: Conduct timely and up-to-date labour market analysis with a focus on migrant workers.	To inform and monitor evidence based and harmonized employment and labour migration policies to tackle employment and jobs challenges, and to support Kenya's inclusive structural transformation towards higher productivity.	Government
INTERVENTION: Develop guidelines on the employment of expatriates and monitor the understudy arrangements.	Enable transfer of skills to Kenyans.	Government (led by NEA) with employers and employees
INTERVENTION: Establish a one stop shop offering all labour migration services under one integrated system.	To improve linkages and seamless flow of information on migrant workers.	Government and other stakeholders

Strategic recommendation 3: Enhance coordination of labour migration management.

Labour migration in Kenya is handled by various institutions. These institutions are faced with challenges that hinder their effectiveness in management of labour migration. The challenges include:

▶ lack adequate human resources and financial, technological and infrastructural capacities to effectively implement labour migration programmes, both locally and abroad;

▶ inadequate administrative and institutional capacity for effective migration management;

▶ inadequate funding; and

▶ poor linkages and lack of synergy.

The fragmented and uncoordinated administration of labour migration management by various government agencies inhibits effective protection of Kenyans working or seeking employment abroad. Accordingly, recommended points of action include the following:

Recommended action	Anticipated benefit	Relevant bodies
POLICY: Strengthen the capacity of institutions involved in labour migration, including the National Coordination Mechanism on Migration (NCM).	The NCM is a government-led platform tasked with facilitating interagency coordination, collaboration and information sharing on migration issues at the national level. Strengthening the capacity of institutions involved in its functioning will: (i) improve the effective execution of their respective mandates; and (ii) allow for more effective coordination and administration of labour migration management by various government agencies to ensure the protection of migrant workers.	Government and other stakeholders
INTERVENTION: Strengthen synergies among the institutions dealing with labour migration in the country.	Effective coordination of labour migration in the country.	Government and other stakeholders
INTERVENTION: Strengthen the human, financial, technological and infrastructural capacities of institutions for effective execution of their mandate.	Effective execution of the institutions mandate.	Government and other stakeholders

▶ Bibliography

– AfDB (African Development Bank). 2019. *African Economic Outlook 2019*.
– CBK (Central Bank of Kenya). 2018. *The Impact of Interest Rate Capping on the Kenyan Economy*, draft for comments, March 2018.
– ———. 2020. "Diaspora Remittances", available at https://www.centralbank.go.ke/diaspora-remittances/.
– CIA (Central Intelligence Agency). n.d. "The World Factbook – Kenya", available at: https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html.
– FAO (Food and Agriculture Organization). n.d. "Kenya at a Glance", available at: http://www.fao.org/kenya/fao-in-kenya/kenya-at-a-glance/en/.
– Global Commission on International Migration. 2005. *Migration in an Interconnected World: New Directions for Action*.
– Government of Kenya. 2013a. *Second Medium Term Plan (2013–2017) – Transforming Kenya: Pathway to Devolution, Socio Economic Development, Equity and National Unity*.
– ———. 2013b. Sector Plan for Labour and Employment (2013–2017).
– ———. 2018. Third Medium Term Plan 2018 – 2022.
– Horwood, Christopher. 2015. "Irregular Migration Flows in the Horn of Africa: Challenges and Implications for Source, Transit and Destination Countries", Australian Department of Immigration and Border Protection Occasional Paper Series No. 18.
– IFAD (International Fund for Agricultural Development). 2019. "Kenya", available at: https://www.ifad.org/en/web/operations/country/id/kenya.
– IGAD (Intergovernmental Authority on Development). 2008. Declaration on the Establishment of Intergovernmental Authority on Development.
– ———. 2012. Regional Migration Policy Framework.
– ———. 2013. Regional Migration Action Plan.
– ———. 2016. *IGAD Regional Strategy – Volume 1: The Framework*.
– ———. 2020. "Protocol on Free Movement of Persons Endorsed at Ministerial Meeting", press release, 26 February 2020.
– ILO. 2006. ILO Multilateral Framework on Labour Migration: Non-binding Principles and Guidelines for a Rights-based Approach to Labour Migration.
– ———. 2007. *International Labour Standards on Migrant Workers' Rights: Guide for Policymakers and Practitioners in Asia and the Pacific*.
– ———. 2013. Resolutions concerning statistics of work, employment and labour underutilization, STATI-1311114-1.
– ———. 2016. *General Survey Concerning the Migrant Workers Instruments*, ILC.105/III/1B.
– ———. 2018. *Guidelines Concerning Statistics of International Labour Migration*, ICLS/20/2018/Guidelines.
– ———. 2019a. "Observation (CEACR) – Minimum Age Convention, 1973 (No. 138) – Kenya", ILO NORMLEX database. Available at: https://www.ilo.org/normlex.
– ———. 2019b. "Observation (CEACR) – Abolition of Forced Labour Convention, 1957 (No. 105) – Kenya", ILO NORMLEX database. Available at: https://www.ilo.org/normlex.
– ———. 2019c. "Labour Force Participation Rate, by Age and Sex — ILO Modelled Estimates", ILOSTAT database, available at: https://ilostat.ilo.org/.
– ———. 2019d. "Employment-to-Population Ratio, by Age and Sex — ILO Modelled Estimates", ILOSTAT database, available at: https://ilostat.ilo.org/.
– ———. 2019e. "Employment Distribution by Economic Activity (by Sex and Rural/Urban Areas) — ILO Modelled Estimates", ILOSTAT database, available at: https://ilostat.ilo.org/.
– ———. 2020a. *An Assessment of Labour Migration and Mobility Governance in the IGAD Region: Country Report for Kenya*.
– ———. 2020b. *The Potential of Skills Development and Recognition for Regulated Labour Mobility in the IGAD Region: A Scoping Study Covering Djibouti, Ethiopia, Kenya, Uganda and Sudan*.
– ———. n.d.-a. "Ratifications for Kenya", ILO NORMLEX database. Available at: https://www.ilo.org/normlex. Accessed 01 April 2020.
– ———. n.d.-b. "DW4SD Resource Platform: Thematic area 14. Labour Market Information Systems", available at: https://www.ilo.org/global/topics/dw4sd/themes/lm-info-systems/lang--en/index.htm.
– ILO and OECD (Organisation for Economic Co-operation and Development). 2018. *How Immigrants Contribute to Developing Countries' Economies*. OECD.
– IOM (International Organization for Migration). 2015. *Migration in Kenya: A Country Profile 2015*.
– ———. 2018a. *World Migration Report 2018*.
– ———. 2018b. *Assessment Report on the Human Trafficking Situation in the Coastal Region of Kenya*.
– KenInvest. n.d. "Homepage", available at: www.invest.go.ke.
– Kipkemboi Chesang, Richard. 2013. "Drug Abuse among the Youth in Kenya." *International Journal of Scientific and Technology Research* 2 (6): 126–131.
– KNBS (Kenya National Bureau of Statistics), 2016. *Micro, Small and Medium Establishments (MSME): Basic Report 2016*.
– ———. 2017. *Report of the 2017 Census of Establishments (COE)*.
– ———. 2018a. *Kenya Integrated Household Budget Survey (KIHBS) 2015/16: Poverty Report*.
– ———. 2018b. *Kenya Integrated Household Budget Survey (KIHBS) 2015/16: Labour Force Basic Report*.
– ———. 2018c. *Economic Survey 2018*.
– ———. 2019a. Kenya Population Household Survey 2019
– ———. 2019b. *Economic Survey 2019*.
– Little, Peter. 2007. "Unofficial Cross-border Trade in Eastern Africa", paper presented at the FAO workshop on Staple Food Trade and Market Policy Options for Promoting Development in Eastern and Southern Africa, Rome, 1–2 March.
– Mixed Migration Centre. 2018. *Mixed Migration Review 2018: Highlights*.
– National Treasury. 2019. *Annual Public Debt Management Report 2018/19*.
– Njuki, Caroline, and Woldamlak Abera. 2018. "Forced Displacement and Mixed Migration Challenges in the IGAD Region." *GREAT Insights Magazine* 7 (1): 11–13.
– Page, John. 2018. "Rethinking Africa's Structural Transformation: The Rise of New Industries." In *Foresight Africa: Top Priorities for the Continent in 2018*, edited by Brahima S. Coulibaly. 64–81. Brookings Institute.

– RMMS (Regional Mixed Migration Secretariat) 2017. "RMMS Mixed Migration Monthly Summary: East Africa and Yemen", September.

– Stapleton, Sarah O., Rebecca Nadin, Charlene Watson, and Jan Kellett. 2017. *Climate Change, Migration and Displacement: The Need for a Risk-Informed and Coherent Approach*.

– *Techsnich*. 2019. "Why do start-ups fail in Kenya?", available at: http://www.techsnich.co.ke/why-do-startups-fail-in-kenya/.

– UNDESA (United Nations Department of Economic and Social Affairs), Population Division. 2017a. World Population Prospects: The 2017 Revision.

– ———. 2017b. "International Migrant Stock: The 2017 Revision", available at: https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates17.asp.

– ———. 2018. "World Urbanization Prospects: The 2018 Revision", available at: https://population.un.org/wup/.

– UNDP (United Nations Development Programme). 2009. *Human Development Report 2009 – Overcoming Barriers: Human Mobility and Development*.

– ———. 2018. "Human Development Indices and Indicators: 2018 Statistical Update – Kenya", Briefing note for countries on the 2018 Statistical Update.

– UNECE (United Nations Economic Commission for Europe). 2016. *Defining and Measuring Circular Migration*.

– UNHCR (United Nations High Commissioner for Refugees). 2019. "Kenya Statistical Package", available at: https://www.unhcr.org/ke/wp-content/uploads/sites/2/2019/02/Kenya-Statistics-Package-January-2019.pdf.

– UNODC (United Nations Office on Drugs and Crime). 2019. Drug Trafficking Patterns to and from Eastern Africa Available under: https://www.unodc.org/easternafrica/en/illicit-drugs/drug-trafficking-patterns.html.

– Van Hear, Nicholas. 2006. "'I Went as Far as My Money Would Take Me': Conflict, Forced Migration and Class." In *Forced Migration and Global Processes: A View from Forced Migration Studies*, edited by Francois Crepeau. Delphine Nakache, Michael Collyer, Nathaniel Goetz, and Art Hansen. 125–158. Lanham, MA: Lexington Books.

– Van Hear, Nicholas, Oliver Bakewell, and Katy Long. 2012. "Drivers of Migration", Migrating out of Poverty Research Programme Consortium Working Paper No. 1.

– Vollgraaf, Rene. 2019. "Kenya's President Rejected Rate-Cap Bill, Central Bank Head Says." *Bloomberg*, 17 October.

– World Bank. 2017a. "Annual Remittances Data (updated as of October 2017)", Migration and Remittances Data database.. Available at: http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data.

– ———. 2017b. *Standing Out from the Herd: An Economic Assessment of Tourism in Kenya*.

– ———. 2017c. *Kenya: Country Economic Memorandum – From Economic Growth to Jobs and Shared Prosperity*.

– ———. 2018. *Doing Business 2018: Reforming to Create Jobs*.

– ———. 2019a. "GNI per Capita, Atlas Method (Current US$)", World Development Indicators database. Available at: https://data.worldbank.org/indicator/.

– ———. 2019b. "Historical Classification by Income", World Bank Country and Lending Groups database. Available at: https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups.

▶ Appendix I. List of key informants

No.	Position and/or organization	Location
1	County Statistical Officer – KNBS	Nairobi
2	Central Staff Representative – Barclays Bank	Nairobi
3	Operational Manager – DALBERG	Nairobi
4	Human Resource Manager – Institute for Economic and Development Affairs	Nairobi
5	National Organising Secretary – Kenya Private Security Worker's Union	Nairobi
6	Focal Person Migration (Central Organization of Trade Unions) and Assistant Secretary General KUDHEIHA (Kenya Union of Domestic, Hotels, Educational Institutions and Hospital Workers)	Nairobi
7	Assistant Secretary – Federation of Kenyan Employers	Nairobi
8	Deputy Labour Commissioner – Ministry of Labour	Nairobi
9	Program Officer – National Council of Churches of Kenya, Huruma	Nairobi
10	Human Rights Officer – Kenya National Human Rights Commission	Nairobi
11	African Population and Health Research Centre	Nairobi
12	Family Health Options Kenya	Nairobi
13	Sustainability Director – Cookswell Jikos Limited	Nairobi
14	Founder and CEO – Victory Farms	Nairobi
15	Insurance company owner	Nairobi
16	Owner – Valor Solutions	Nairobi
17	Local business founder	Nairobi
18	Local business owner	Nairobi
19	Migrant worker	Nairobi
20	Migrant worker	Nairobi
21	Refugee Representative, Bungoma	Bungoma
22	Bungoma County Employment Officer	Bungoma
23	Senior Labour Inspector, Bungoma	Bungoma
24	Chairman of private sector business	Bungoma
25	Chairman – Lwakhakha Market Development	Bungoma
26	Former market chairman	Bungoma

27	Migrant worker	Bungoma
28	Migrant worker	Bungoma
29	Senior Social Development Officer	Garissa
30	Field Assistant – Refugee Affairs Secretariat, Dagahley	Garissa
31	District Education Officer, Daadab	Garissa
32	Chairlady – Maendeleo ya Wanawake Daadab	Garissa
33	District Officer, Daadad	Garissa
34	Migrant worker	Garissa
35	Migrant worker	Garissa
36	Community leader/Red Cross volunteer	Kisumu
37	Tracing Officer – Red Cross	Kisumu
38	Regional Logistics Officer – Red Cross	Kisumu
39	Migrant worker	Kisumu
40	Migrant worker	Kisumu

▶ # Appendix II. Quantitative interview questionnaire

The following questionnaire is consistent with the 19th ICLS resolution on statistics of work, employment and labour underutilization and the 20th ICLS statistical guideline on labour migration. It seeks to capture the nature of labour migration between IGAD countries, and collects information on the characteristics of migrant workers and their labour force status.

▶ ## Module 1 - Socio-economic characteristics of labour migrants

OBJECTIVES AND SCOPE   Covers basic demographics on sex, age, marital status, education level, field of study and current educational attainment of migrant workers
IMPLEMENTATION NOTES   The module should be asked to pre-selected migrant workers regardless of labour force status. The module should be asked to migrant workers 15 years old and over.
A01 Full Name
A02 Marital Status   1=Single   2=Married   3=Divorced   4=Widowed
A03 Sex   1 Male   2 Female
A04 How old are you currently? (Record age in completed years or estimated years)
A05 What is your highest level of educational attainment (finalized education level)   1=No formal education   2= Primary education   3=Lower secondary education (O-level)   4= Upper secondary education (A- level)   5= Post-secondary (TVET and TVET college)   6= Tertiary education (University)   7= Other (Specify)
A06 Did you study in a public institution? Yes/No
A07 Did you learn any specialized trade or profession? Yes/No
A08 What type of trade or profession did you learn?   Specify (e.g. Driver, electrician, doctors, teacher)   ………………………………………………… ISCO   CODE

> **Module 2 - Labour force status**

OBJECTIVES AND SCOPE
Determines the labour force status of migrants according to the 19th ICLS standards on work, employment and underutilization

IMPLEMENTATION NOTES
The module should be asked to pre-selected labour migrants regardless of labour force status. The module should be asked to labour migrants 15 years old and over.

B01. During the reference week, did you do any work for wage, salary, commission, tips or any other pay, even if only for one hour?
1=Yes >> B10
2=No

B02. During the reference week, did you run or do any kind of business, farming or other activity to generate income, even if only for one hour?
1=Yes>>>B04
2=No

B03. During the reference week, did you work without pay in a business owned by a household member, even if only for one hour?
1=Yes
2=No>>>B06

B04. Was this work in agriculture or fishing?
1=Yes
2=No >>B10

B05. In general, are the products obtained from this activity for sale or for family use?

1=Only for sale   >>>>>>>>>>>>>>>>>>>>>>>>>>>> B10
2=Mainly for sale   >>> >>>>>>>>>>>>>>>>>>>>>>>>>>>>>>B10
3=Mainly for family use
4=Only for family use

B06. During the reference week, did you have a paid job or a business from which you were temporarily absent and for which you expect to return?
1=Yes
2=No >>> B17

B07. What was the main reason you were absent from work during the reference week?
1=Sick leave due to own illness or injury   >>>>>>>>>>>>B10
2=Public holidays, vacation or annual leave   >>>>>>>>>>>>B10
3=Maternity or paternity leave as specified by legislation   >>>>>>>>>>>>B10
4=Parental leave
5=Educational leave
6=Care for others and other personal absences
7=Seasonal work   >>>>>>>>>>>>B17
8=Strikes or lockouts
9=Reduction in economic activity (e.g. temporary lay-off, slack work)
10=Disorganization or suspension of work (e.g. due to bad weather, mechanical, electrical or communication breakdown, problems with information and communication technology, shortage of raw materials or fuels)
11=Other, specify _____

B08. When will you return to work (same job/activity)? Include the time that you have been absent up to now.
1=Within 3 months or less >>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>B10
2= After 3 months
3= Not sure to return to work (Interviewer not to read)

B09. Do you continue receiving an income from your job during your absence?
Yes >>B10
No >>> B17

B10. Did you have any business or performed any secondary activity for at least one hour during the reference week?
Yes
No

B11. How many hours do you usually work per week?
1=Main job   _____ hours
2=Secondary job(s)   _____ hours

B12. During the reference week, how many hours did you actually work?

	M	T	W	T	F	S	S	Total
1. Main job								
2. Secondary job(s)								

B13. INTERVIEWER. How many hours did the person work during the reference week at all jobs combined?
1=Less than 35 hours
2= 35 hours or more

B14. During the last 4 weeks, did you look for additional or other work?
1=Yes
2=No

B15. Would you want to work more hours per week than actually worked, provided the extra hours are paid?
1=Yes
2=No >> Module 3

B16. If an opportunity for additional work became available, could you start working more hours within the next two weeks?

1=Yes >>> Module 3
2=No >>> Module 3

B17. During the last 4 weeks, did you look for any kind of paid job or try to start any kind of business?

1=Yes >> B19
2=No

B18. Have you already found a job or arranged to start a business in the future?

1=Yes >> B23
2=No >>> >>>B21

B19. What did you do in the last 4 weeks to find a job or start a business? [Mark all that apply]
1=Arranging for financial resources, applying for permits, licenses
2=Looking for land, premises, machinery, supplies, farming inputs
3=Seeking the assistance of friends, relatives or other types of intermediaries
4=Registering with or contacting public or private employment services
5=Applying to employers directly, checking at worksites, farms, factory gates, markets or other assembly places
6=Placing or answering newspaper or online job advertisements
7=Placing or updating resumes on professional or social networking sites online
8=Other, specify _____
9=No method   >>> >>>B23

B20. For how long have you been without work and trying to find a paid job or start a business?
1=Less than 1 month
2=1 month to less than 3 months
3=3 months to less than 6 months
4=6 months to less than 12 months
5= years or more

B21. Would you want to work if a job or business opportunity became available?
1=Yes
2=No

B22. What is the main reason you did not try to find a paid job or start a business in the last 4 weeks?

1=Own illness
2=Disability
3=Studies
4=Pregnancy
5=Presence of small children
6=Refusal by family
7=Past failure to find suitable job
8=Lack of experience, qualification or jobs matching skills
9=Lack of jobs in the area
10=Considered too young or too old by prospective employers
11=Lack of infrastructure (assets, roads, transportation, employment services)
12=Other sources of income (pension, rent)
13= Estrangement
14=Other, specify _____

B23. If a job or business opportunity were available, could you have started work during the reference week or within the next two weeks?
1=Yes
2=No

B24. What is the mean reason why you are not available to start working in the next two weeks?
1=In studies, training
2=Maternity leave, child care
3=Injury, illness
4=Family member(s) consider that you should stay at home
5=Other, specify _____

▶ Module 3 - Characteristics of employed labour migrants

OBJECTIVE AND SCOPE
To capture the nature of employment of labour migrants
Captures the sector of employment, status of employment, occupation, informal employment
and informal/formal sector employment.

IMPLEMENTATION NOTES
Aligned with the latest 19th ICLS guidelines concerning employment
Should be asked to all labour migrants 15 years old and older that could be identified as
employed in Module 2.

C01. What is the name of your place of work?
1= Domestic worker in private household
2= Without name
3= Name: ………………………………………………

C02. What are the main goods or services produced at your place of work or its main function?
Examples: selling fish, teaching children to read and write, caring for the sick, livestock farming
ISIC CODE

C03a In the main job / business that you had last week, what kind of work do you usually do?
Examples: policeman, primary school teacher, registered nurse, domestic worker, truck driver)

C03b What are your main tasks and duties? ISCO
ISIC CODE

C04. In this job, are you:
Working for someone for pay
1=Employee
2=Paid apprentice/Intern
Working as an
3=Employer (with regular employees) >>>>>>>>>>>>>>>>>>>>>>>>>>>> C10
4=Own account worker (without regular employees) >>>>>>>>>>>>>>>>>>>>>>>>> C10
5=Helping without pay in household/family business >>>>>>>>>>>>>>>>>>>>>>>> C10
6=Other (please specify) >>>>>>>>>>>>>>>>>>>>>>>>>>> C10

C05. Have you been employed on the basis of:
1=Written contract
2=Oral agreement

C06. Is your contract or agreement a:
1= Permanent arrangement
2= Temporary arrangement

C07. Does your employer pay contributions for social security on his/her behalf (e.g. pension
fund, etc.)?
1=Yes
2=No
3= Do not know

C08. Do you benefit from paid annual leave or /payment compensation for leave not taken?
1=Yes
2=No
3= Do not know

C09. Do you benefit from paid sick leave in case of illness or injury?
1=Yes
2=No
3= Do not know

C10. Was your main activity carried out in...? (READ)
1= Government (federal, state, local)
2= State owned enterprise
3=Private business or farm
4= International org., foreign embassy
5=Others

C11. Is the enterprise/business where you work? (READ)
1= An incorporated company
2= An independent, personal family business
3= Do not know

C12. Is the enterprise/business where you worked registered with (relevant authority)?
1=Yes
2=In the process of being registered
3=No
4=Do not know

C13. Does the business keep a book of accounts (assets and expenditures)?
1=Yes
2=No
3= Do not know

C14. How many persons, including the owner, work at your place of work?
1= 1 persons
2= 1-4 persons
3= 5-9 persons
4= 10-19 persons
5= 20-49 persons
6= 50+

C15. In what type of place do you usually work?
1=At home
2=Structure attached to the home
3= At the client/employer's home
4= At an office, shop factory, or other fixed place of work
5= Fixed stall in market/mobile
6= Land, forest, sea, ...
7=Without fixed location/mobile
8= Construction site
9= Other (specify)

C16. How long have you worked for this employer/in this business?
1= Less than 6 months
2= 6 months to less than 1 year
3= 1 year to less than 3 years
4= 3 years to less than 5 years
5= 5 years or more

C17. What is the net daily/weekly/monthly earnings of (NAME) from his/her business or activity?
(Please round up and specify currency unit)
C16a=Daily
C16b= Weekly
C16c= Monthly

Module 4– Nature of labour migration

OBJECTIVE AND SCOPE
To capture international migration status
Captures basic essential characteristics needed to identify the foreign-born and foreign populations in the country of destination. This includes: country of birth, date of last arrival to country of current residence, reason for move, and country of citizenship.
It allows distinction between recent and long-term international migrants.
The module covers also transit migration, short-term -, circular, and irregular migration.
The module does not cover internal migration and returnees.

IMPLEMENTATION NOTES
Aligned with the latest 20th ICLS guidelines concerning international labour migration
Aligned with the recommendations included in the Handbook on Measuring International Migration through Population Censuses (UN 2017).
The module should be asked to labour migrants 15 years old and over.

D01 In which country were you born? (please specify)

NAME OF COUNTRY   *CODE OF COUNTRY*

D02 What is the country of your citizenship/nationality (please specify)? If you have dual citizenship please name both countries
D02a=Country 1...............................
D02b=country 2...............................

D03 What is your current resident status in this country?

1=Non-usual resident[8] (short-term business) (e.g. frontier workers, seasonal workers, other short-term migrant workers, volunteer workers and nomads)
 a=Yes b=No
2=Usual residents[9] but have no official documentation of residence a=Yes b=No
3=Usual resident a=Yes b=No

D04 In what month and year did you [did NAME] leave your country of birth?

Interviewer: Use 2 digits for the month and 4 digits for the year; Record 00 if the month is unknown

D04a= Month: MM
D04b=Year: YYYY

 D05 In which month and year did (you/NAME) most recently arrive to live in [COUNTRY]?
 _____ _____

 MONTH YEAR

 97=DONT KNOW 9997=DON'T KNOW

---

8   Less than 6-monhts

9   More than 6-months

D06 How long have you been living in this [COUNTRY]...?
1=Three months or less
2=Three to 12 months
3=One year to less than 5 years
4=Five years to less than 10 years
5=Ten years or more

D07 What was the main reason for you to leave your home country?
1= In search for an opportunity to make money
2= In search of establishing a business
3= Promised a job
4= To take up a new job
5= Job transfer
6= Study/Training
7= Marriage
8= Family moved/ to live with a relative/dependent
9= Health reasons
10= Natural disaster/ environment
11= Conflict
12= Others (specify)

D08 Have you ever lived in another country than this one continuously for 3 months or more?
1 = Yes, in another country
2= No, except my birth place >>>>>>>>>>>>>>>>>>D12
3= No >>>>>>>>>>>>>>>>>>D12

D09 In which country did you live before moving here?

D10 What was the main reason for you to move here?

1= In search of job for pay
2= In search of establishing a business
3= Promised a job
4= To take up a new job
5= Job transfer
6= Study/Training
7= Marriage
8= Family moved/ to live with a relative/ dependent
9= Health reasons
10= Natural disaster/ environment
11= Conflict
12= Others (specify)

D11 Have you ever travelled outside of this country even if only for a short period?
1= Yes
2= No

D12 In the past 12 months, how many times did you travel abroad?
1= Every day
2= Every week
3= Few times a month
4= Once every month
5= Few times a year
6= Only travelled once/ once a year

D13 When travelling abroad, how long do you usually stay there?
1= One week or less
2= More than 1 week but less than 1 month
3= 1 month to less than 3 months
4= 3 months to less than 6 months
5= 6 months to less than 12 months
6= 12 months or more

D14 What is the usual reason for your frequent travel?
1= Job search
2= For business
3= To visit family and friends
4= Other

D14 Did you [did NAME] pay any fees to a recruitment agency, employment service, employer, relatives, friends, or any other person in your country to obtain a job here in this country?
1=No >>>>>>>>>>>>>>>>>>D18
2= Yes

D15 To whom did you [did NAME] pay any fees?

1= Recruitment agency (private agency)
2= Employment service (public agency)
3= Employer
4= Relatives or friends
5= Other (specify)

D16 How much did you [did NAME] pay? (Please round up and specify currency unit)

D17 From where did you [did NAME] get the money to pay for the fee?
1= Personal savings
2= Loan from family/ relatives
3= Loan from government agency
4= Loan from charity institutions/ NGOs
5= Contracted a personal loan
6= Loan by a recruitment agency
7= Other (Specify)

D18 Did you [has NAME] send any money or goods from here to your home country during the last month?
1= Yes, cash only
2= Yes, goods only
3= Yes, both cash and goods
4= No >>>>>>>>>>>>>>>>>>>>>>>> End interview

D19 What is the total value of any money or equivalent value of goods you sent to your home country during the last month? (Please round up and specify currency unit)

▶ Appendix III. Key informant semi-structured interview template

The following key informant interview guide was provided to field researchers conducting interviews with government officials, non-governmental organizations and relevant stakeholders from international organizations (such as the IOM) and others, for capturing information specifically around the legal framework for labour migration, perspectives towards migrant labour rights from a policy perspective, and other information.

INFORMATION TO BE CAPTURED ▶ **Perspectives on labour migration trends** ▶ **Legal framework and structural arrangements** ▶ **Perspectives on labour migration management** ▶ **Perspectives around rights of migrant workers**
A01 Full Name and position in organization
A02 Please briefly outline the characteristics and trends of labour migration as well as the positive and negative impacts of labour migration in your country. Is your country a country of destination, origin or both?
A03 What is the most common type of labour migration in your country (in and outbound). For example, circular migration, seasonal migration, long-term, qualified workers or low skilled workers migration? [field researcher to explain the difference as needed]
A04 What do you think are the main driving forces of labour migration? (past, present and future)
A05 Does your country have bilateral or regional labour migration agreements/schemes? Please briefly outline its content and purpose.
A06 What are the priorities of the national policy concerning labour migration in your country?
A07 What is the main legal framework for labour migration management (governance) in your country. If possible, please also present the background to the existing legislation in terms of labour needs, employment/job creation, and political/historical linkages to other countries
A08 Are migrant workers and the general population treated any differently in your country?
A09 Do you think it is necessary to have provisions or a system in place to allow migrant workers to have equivalent or equal treatment to workers from the general population? If so, how would you ensure equal treatment of migrant workers?
A10 Are there international agreements (or other forms of cooperation) on rights of labour migrants has your country concluded with other IGAD countries?
A11 What are the roles of the national employment services (or equivalent bodies) and private recruitment agencies (if existent) in the process of migrant employment?
A12 What are the challenges in your current local content laws that would require adjustments to promote labour mobility?
END OF INTERVIEW:

▶ Appendix IV. Glossary of terms

Bilateral labour agreements refer to agreements between two entities which create legally binding rights and obligations governed by international law and are usually more specific and action-oriented, non-binding memoranda of understanding which set out a broad framework of cooperation to address common concerns, as well as other arrangements, including between specific government ministries or agencies in destination and origin countries. [10]

Domestic worker refers to a person engaged in domestic work within an employment relationship. A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker. [11]

Employment by education refers to those in employment by level of educational attainment, which is classified according to International Standard Classification of Education (ISCED) levels, namely: less than primary education (ISCED level 0); primary education (ISCED level 1); secondary education (ISCED levels 2 and 3); and tertiary education (ISCED levels 5 to 8). [12]

Employment by occupation refers to employed persons classified according to the International Standard Classification of Occupations (ISCO).

Employment by sector refers to employed persons classified according to the International Standard Industry Classification (ISIC), Revision 3.

Employment by skill level refers to employed persons classified according to low (skill level 1), medium (skill level 2) and high (skill levels 3 and 4) skill levels that correspond to ISCO guidelines.

Employment in the informal economy refers to those employed in the informal sector and those in informal employment (that is, it also includes informal employment outside of the informal sector).

Employment in the informal sector (informal enterprises): According to the international standards adopted by the 15th ICLS, the informal sector consists of units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned. The informal sector is a subset of unincorporated enterprises not constituted as separate legal entities independently of their owners. They are owned by individual household members or several members of the same or different households. Typically, they are operating at a low level of organization, on a small scale and with little or no division between labour and capital as factors of production. [13]

Forced labour refers to all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. [14]

Informal employment: The concept of informal employment refers to jobs as observation units. In the case of own-account workers and employers, the informal employment status of the job is determined by the informal sector nature of the enterprise. Thus, own-account workers (without hired workers) operating an informal enterprise are classified as in informal employment. Similarly, employers (with hired workers) operating an informal enterprise are classified as in informal employment. All contributing family workers are classified as having informal employment, irrespective of whether they work in formal or informal sector enterprises. [15]

---

10 ILO, Addressing Governance Challenges in a Changing Labour Migration Landscape, ILC.106/IV (2017), para. 68.

11 ILO Domestic Workers Convention, 2011 (No. 189), Article 1(b–c).

12 UNESCO Institute for Statistics, International Classification of Education 2011, 2012.

13 ILO, Women and Men in the Informal Economy: A Statistical Picture, 2018, box 2.

14 ILO Forced Labour Convention, 1930 (No. 29), Article 2(1).

15 ILO, Women and Men in the Informal Economy: A Statistical Picture, 2018, box 2.

Irregular migrant worker refers to a migrant worker considered to be in an irregular situation or non-documented situation if they are unauthorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreement to which that State is a party. [16]

Labour force refers to the current supply of labour for the production of goods and services in exchange for pay or profit.

Labour mobility refers to temporary or short-term movements of persons for employment-related purposes, particularly in the context of the free movement of workers in regional economic communities. [17]

Labour underutilization refers to mismatches between labour supply and demand, which translate into an unmet need for employment among the population. Measures of labour underutilization include, but may not be restricted to, time-related unemployment, unemployment and the potential labour force.

Less than primary education: Less than primary education (ISCED-A level 0) refers to a broad level of educational attainment covering no participation in education, some participation in early childhood education and/or some participation in primary education.

Migrant worker or international migrant worker refers to all persons of working age (in this case, those aged 15+) present in the country of measurement, who were during the specified reference period in one of the following two categories:

i.   Usual residents: International migrants who were in the labour force of the country of their usual residence, either in employment or in unemployment; or

ii.   Not usual residents (or "non-resident foreign workers"): Persons who, during a specified reference period, were not usual residents of the country but were present in the country and had labour attachment to the country, that is, were either in employment supplying labour to resident producer units of that country

or were seeking employment in that country.

Given the primary data collection element of this study, the definition is in line with the 20th ICLS Guidelines Concerning Statistics for International Labour Migration.

Mixed migration lacks a standard definition however the principal characteristics of mixed migration flows include the multiplicity of factors driving such movements and the differentiated needs and motivations of the persons involved. Many migration streams include people who are on the move for different reasons but share the same routes or modes of travel. They may include refugees, asylum-seekers, forcibly displaced persons, smuggled persons, economic migrants, victims of human trafficking and stranded migrants. People may also move between these categories during the course of their migration. Increasing recognition of these complex migration dynamics has led to the rise of the notion of "mixed migration". [18]

Permanent migrant refers to a person who enters with the right of permanent residence or with a visa or permit which is indefinitely renewable. Permanent immigrants would generally include marriage immigrants, family members of permanent residents, refugees, certain labour migrants, etc. [19]

Persons in employment are defined as all those of working age who, during a short reference period, were engaged in any activity to produce goods or provide services for pay or profit.

Persons in time-related underemployment are defined as all persons in employment who, during a short reference period, wanted to work additional hours, whose working time in all jobs was less than a specified hours threshold, and who were available to work additional hours given an opportunity for more work.

Persons in unemployment are defined as all those of working age who were not in employment, carried out activities to seek employment during a specified recent period, and were currently available to take up employment given a job opportunity.

---

16 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 5.

17 ILO, Addressing Governance Challenges in a Changing Labour Migration Landscape, ILC.106/IV (2017), para. 6, footnote 8.

18 ILO, "Media-Friendly Glossary on Migration: Middle East Edition".

19 ILO, "Media-Friendly Glossary on Migration: Middle East Edition".

Persons outside the labour force are those of working age who were neither in employment nor in unemployment in the short reference period.

Potential labour force refers to persons not in employment who express an interest in this form of work but for whom existing conditions limit their active job search and/or their availability.

Primary education: Primary education (ISCED level 1) provides learning and educational activities typically designed to provide students with fundamental skills in reading, writing and mathematics (that is, literacy and numeracy) and establish a solid foundation for learning and understanding core areas of knowledge and personal development, preparing learners for lower secondary education. It focuses on learning at a basic level of complexity with little, if any, specialization.

Private employment agencies refer to any private individual or enterprise (that is, independent of the public authorities) which provides one or more of the following labour market services: (i) services for matching offers of and applications for employment; (ii) services consisting of employing workers with a view to making them available to a third party; or (iii) other services relating to jobseeking. [20]

Public employment services are usually the primary government institution responsible for implementing a variety of active labour market programmes including the provision of career guidance and labour exchange services. The basic mandate of Public Employment Services is to facilitate the adjustment of firms and workers to changing labour market conditions. [21]

Recruitment agencies are used for the purpose of this report synonymously with the term "labour recruiter", and refer to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks. [22]

Refugee refers to someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. A person is an asylum-seeker until they are determined to be a refugee in accordance with national and international law. [23]

Seasonal worker refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during certain part of the year. [24]

Secondary education: Secondary education (ISCED levels 2 and 3) provides learning and educational activities building on primary education and preparing for labour market entry, post-secondary non-tertiary education, and tertiary education. Broadly speaking, secondary education aims at learning at an intermediate level of complexity. ISCED distinguishes between lower and upper secondary education.

Smuggling of migrants is defined as the procurement, in order 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. [25]

Status in employment refers to employed persons classified according to the International Standard Classification of Employment (ISCE)-93 as either an employee, employer, own-account worker, contributing family worker or member of producer's cooperative or employee, depending on the characteristics of the job.

———

20 Adapted from Private Employment Agencies Convention, 1997 (No. 181), Article 1.

21 ILO, "Public Employment Services".

22 ILO General Principles and Operational Guidelines for Fair Recruitment.

23 UN Convention Relating to the Status of Refugees, 1951; see also ILO, Background Paper and Draft ILO Guiding Principles for Discussion at the ILO Tripartite Technical Meeting on the Access of Refugees and Other Forcible Displaced Persons to the Labour Market, TMARLM/2016 (2016).

24 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 2(1)

25 Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organised Crime, Article 3(a).

Temporary migrant refers to a person of foreign nationality who enters a country with a visa or who receives a permit which is either not renewable or only renewable on a limited basis. Temporary immigrants are seasonal workers, international students, service providers, persons on international exchange, etc. [26]

Tertiary education: Tertiary education (ISCED levels 5 to 8) builds on secondary education, providing learning activities in specialized fields of education. It aims at learning at a high level of complexity and specialization. Tertiary education includes what is commonly understood as academic education but also includes advanced vocational or professional education.

Trafficking in persons is defined as 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.[27]

---

26 OAS and OECD, International Migration in the Americas: Third Report of the Continuous Reporting System on International Migration in the Americas (SICREMI), 2015, 3; ILO, Addressing Governance Challenges in a Changing Labour Migration Landscape, ILC.106/IV (2017), para. 21

27 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, Article 3(a)

**Free Movement
of Persons and
Transhumance
in the IGAD Region**

International Labour Organization

IGAD

PEACE, PROSPERITY AND
REGIONAL INTEGRATION

Funded by the European Union

ilo.org

f   International Labour Organization

🐦   @ILO

▶   ILOTV