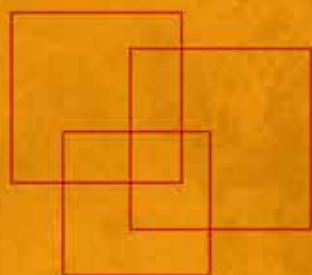




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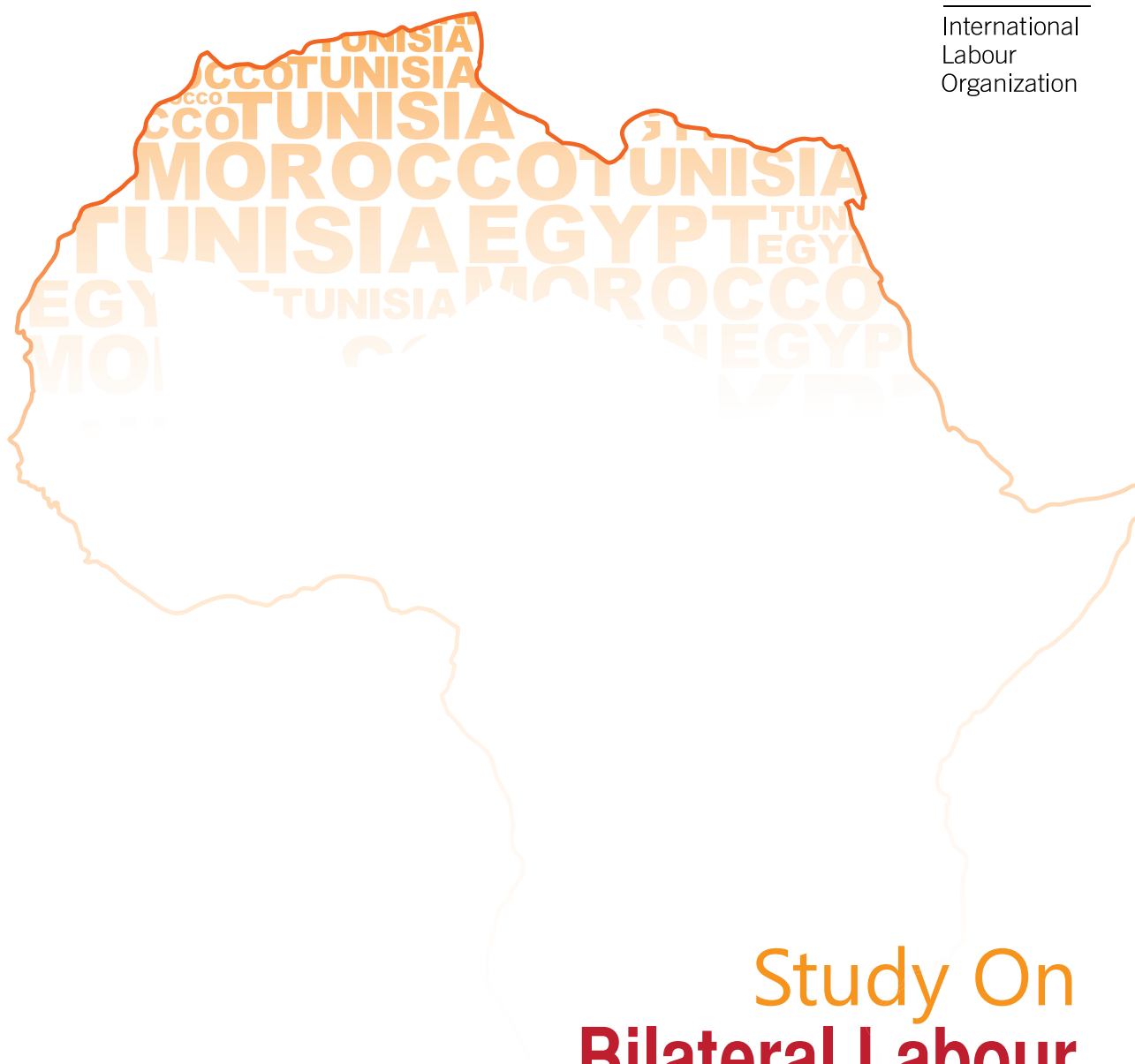
A large, stylized map of North Africa is centered on the page. The map is filled with a light orange color and has a darker orange outline. Inside the map, the names of the countries in the region—TUNISIA, MOROCCO, and EGYPT—are repeated in various sizes and orientations, creating a word cloud effect. The text is in shades of orange and white.

Study On Bilateral Labour and Social Security Agreements In North Africa

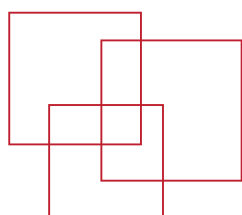




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Study On Bilateral Labour and Social Security Agreements In North Africa



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Introduction

Research Objectives

Methodology

Introduction

Migration is “a key feature of today’s world of work and one which raises complex policy challenges”.¹ Today’s international migration movements have become increasingly complex in nature and composition. Such complexity has underscored the importance of international cooperation with respect to migration processes so as to facilitate their governance and to ensure the protection of the rights of migrant workers. Cooperation in the field of migration has taken various forms, at the multilateral, regional and national levels. On-going international cooperation in the area of migration has taken shape in the High Level Dialogue on International Migration and Development, the Global Forum for Migration and Development (GFMD), and the post-2015 Development Agenda discussions.

The Global Migration Group is the forum of cooperation of the United Nations system. It brings together heads of agencies to promote the wider application of all relevant international and regional instruments and norms related to migration, and to encourage the adoption of more coherent, comprehensive, and better coordinated approaches to the issue of international migration.²

There are various types of bilateral agreements that constitute common mechanisms for regulating labour migration. These agreements are significant tools for both countries of origin and destination, which share a common interest that is, regulating migration flows through legal means and protecting the working and living conditions of migrant workers. The formal types of such agreements set out the commitment of each party to ensure that migration takes place in accordance with a particular framework of principles and procedures that are agreed upon by both states. Bilateral agreements may also come in less formal documents, such as a Memorandum of Understanding (MOU), which is the most desirable form for countries of destination due to its non-binding character. Such agreements are easier to negotiate, implement, and modify according to changes in the economic and labour market conditions.

Bilateral labour agreements (BLAs) between origin and destination countries can be a significant means of providing minimal standards and rights to migrant workers.³ For destination countries, the primary aim of bilateral agreements is to help address gaps in skills within the local labour market, be it seasonal workers, low-skilled labour, or high-skilled labour.⁴

Through such agreements, the countries of destination are able to meet the needs of employers and the industrial sector while providing better migration governance and promoting cultural ties and exchange. As for countries of origin, these agreements increase their workers access to the international labour markets as well as promote their protection and welfare. By facilitating access to the formal labour market and by providing legal channels for migration, exploitation can be reduced.⁵

Countries of origin may also promote the development of their human capital through the acquisition of occupational skills within the framework of the agreements. These agreements can also ensure that workers who have successfully acquired new skills return to the countries of origin, thus avoiding ‘brain drain’.

1 ILO, 2014 a,1

2 www.globalmigrationgroup.org

3 Ginneken, 214.

4 IOM, Background Note

5 Ginneken, 214.

Another significant mechanism of cooperation that is frequently taking place takes the form of social security agreements. Bilateral social security agreements ensure that the social security rights acquired in a particular country of employment are maintained. This is particularly significant due to the fact that there is a growing number of individuals who move across borders in search for better living conditions and employment opportunities.

In 2015, an estimated 244 million people live outside their countries of origin.⁶ From among these, 105 million migrant workers contribute to the economies of their countries of origin and destination. However, they remain the most excluded from basic coverage of social protection instruments and schemes. Women migrants are even more vulnerable and excluded, as are undocumented/irregular migrant workers. While they allow meeting the increasing demand for labour in international labour markets, migration processes also raise various challenges for migrants and their families when it comes to social security coverage.

The terms “social protection” and “social security” are often used interchangeably despite the fact that ‘social protection’ is interpreted to have a broader character and encompasses, in particular, the protection provided between family members or members of a local community. It is also used in a narrower context where social protection is understood to refer to measures targeting the poorest, most vulnerable or excluded members of society. This study uses the terms interchangeably, as does the ILO.⁷

The ILO has long recognized the potential of bilateral labour agreements and social security agreements as reflected in its various instruments. Reference to bilateral labour agreements can be found in the ILO Convention on Migration for Employment, 1949 (No. 97) and the accompanying Migration for Employment Recommendation (revised), 1949 (No. 86). Instruments pertaining to social security include the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Maintenance of Social Security Rights Recommendation, 1983 (No. 167) which includes in its annex a model template for social security agreements.⁸

In the ILO Director-General’s report on Fair Migration for the 2014 International Labour Conference, he reiterated the significance of bilateral agreements in enhancing the regulation of migration between member States.

The use of bilateral agreements (BAs) can be dated back to the early 1900s. However, there are two distinct stages for the evolution of BLAs. The “first generation” of BLAs can be attributed to the period from the 1940s to 1970. This period is described as the golden age for BLAs as they focused mainly on labour recruitment to respond to the labour demand needed for the reconstruction of post war Europe.

This need gave rise to major migration movements into European countries based on bilateral

⁶ un.org/sustainabledevelopment/goals webpage.

⁷ World Social Protection Report, 2014/15, Glossary

⁸ Wickramasekara, Piyasiri, “Bilateral agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review”, Report for the Labour Migration Branch/Piyasiri Wickramasekara; International Labour Office-Geneva: ILO, 2015, p.64.

agreements in the 1950s and 1960s. This period is significant in the case of the North Africa sub-region due to the fact that Algeria, Tunisia, and Morocco were major origin countries that entered into bilateral labour cooperation with various European counterparts. However, due to the oil crisis and recession in Europe in the 1970s, there was a virtual stop to migration flows under bilateral agreements.

The post-1990 area represents a remarkable growth in bilateral agreements on migration. This period could be described as the “Second Generation” BLAs as compared to the “First Generation” of the 1940-1970 era. The nature of these agreements changed from being merely tools of recruitment to tools that serve broader functions. Such broader objectives include but are not limited to: the promotion of regional integration, control of irregular migration, ensuring readmission, promotion of cultural ties, ensuring temporariness in stay, promotion of migration and development linkages, and the protection of rights and welfare of migrant workers.

As such, the purpose of this study is to undertake in-depth research on the different BLAs and social security agreements in the North Africa sub-region, with particular emphasis on Egypt, Tunisia, and Morocco. Bilateral agreements among the three North African countries as well as agreements between them and the respective main destination countries for their workers will be analyzed.

This study is based on three national reports about the main bilateral labour agreements, MOUs, establishment agreements, and social security agreements of Egypt, Morocco, and Tunisia. The output of these reports was supplemented by additional research carried out by the Center for Migration and Refugee Studies (CMRS) at The American University in Cairo (AUC) for the purpose of synthesizing the information into a regional report.

Research Objectives

This study provides an in-depth analysis of key labour agreements, MOUs, protocols, and other arrangements regulating labour mobility at the bilateral and sub-regional levels. It specifically aims to:

- Map and analyze bilateral agreements on labour and social security in North Africa, entered into by Egypt, Morocco, and Tunisia.
- Emphasize good practices in agreements based on specific criteria drawn from international norms, and highlight agreements which could lead to better outcomes in terms of migration governance and the protection of migrant workers.
- Formulate recommendations and policy advice for improving and enhancing the design and implementation of agreements on protecting the rights of migrant workers based on the research findings and identify areas for further work.

The main task is thus to analyze the bilateral agreements with the following purposes:

- Identification of common elements;
- Identification of major divergences in the approach demonstrated by these agreements; With regards to social security agreements, the study aims to concentrate on the main principles and some important issues rather than examining all the technical details of each and every single provision. As such, the following questions will be addressed in this context:
 - Which branches/schemes of social security are covered by the Agreements?
 - What groups of persons are covered by the Agreements and what special features are linked to equal treatment?
 - How are pensions, accumulation of periods of contribution, and portability of benefits determined under the Agreements?

Methodology

1. Definitions and Concepts

There are various forms and mechanisms regulating migrant labour cooperation among states. For the purpose of this study, the most significant forms and mechanisms include, but are not limited to:

A. Bilateral Agreement (BA):

"It is a treaty as described under the 1969 Vienna Convention on the Law of Treaties: an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation. BAs are agreements between two States which describe in detail the responsibilities of, and actions to be taken by each of the parties, with a view of accomplishing their goals. BAs create legally binding rights and obligations."⁹

B. Memorandum of Understanding (MOU):

"A memorandum of understanding is an international instrument of a less formal kind. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. It is typically in the form of a single instrument and does not require ratification."¹⁰ In summary, MOUs entail general principles of cooperation describing broad concepts of mutual understanding, goals, and plans shared by the parties. They are usually non-binding instruments.

C. Social Security Agreement (SSA):

Agreements between two nations which serve two main purposes. Primarily they prevent migrant workers from a particular state from paying social security contributions in two countries, that in which he/she works and the other which is his/her home country. They also coordinate the provision of benefits abroad and allow for equal treatment for workers who are employed in countries other than their own with which their home countries have concluded SSAs.

Social security agreements include at least one of the key principles embodied in the standards of the International Labour Organization (ILO) that aim to coordinate social security rights and benefits for migrant workers and their families. The major principles include equality of treatment between nations and non-nations, maintenance of acquired rights and provision of benefits abroad; determination of the applicable legislation; maintenance of rights in the course of acquisition; and reciprocity.¹¹

⁹ Wickramasekara, 3

¹⁰ United Nations Treaty Collection web portal: Section on definitions.

¹¹ Hirose, K.; Nikač, M.; Tamagno, E. 2011. Social Security for Migrant Workers: a Rights-based approach (Budapest, ILO). Available at: http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_168796.pdf p.8

2. Research Methods

A. Literature Review

A preliminary literature review was conducted on the theory and practice of bilateral agreements as well as the different forms of cooperation that are the most prevalent in the region in order to establish the theoretical framework for the study. The literature review also included the definitions of key terms, concepts, and terminology which were presented above. This preliminary review was followed by a more comprehensive one on the specific agreements that will be analyzed within the scope of this study. As such, the review helped identify the case studies on which particular attention will be placed.

B. Key Stakeholder Interviews

The literature review was complemented with in-depth interviews with key stakeholders including officials in relevant departments of the governments in Egypt, Tunisia, and Morocco, ILO constituents, as well as other organizations. The interviews were particularly beneficial for getting insights on the actual gaps and implementation of labour agreements as well as assessing good practices

C. Assessment of Agreements in Relation to International Norms and Good Practices

The analysis conducted for the purpose of this study is based on a set of criteria that are consolidated from international instruments. The use of international instruments, such as the Universal Declaration of Human Rights, and the eight ILO core conventions, play a foundational role when assessing the content of an agreement. Below is the list of major instruments used to come up with the criteria by which we assess the bilateral labour agreements and the social security agreements.

Assessment of Labour Migration Agreements

Labour migration specific international instruments include:

- The ILO Migration for Employment Convention, 1949 (No.97) and the accompanying Recommendation (No, 86) (including the annexed Model Agreement)
- ILO Migrant Workers Convention, 1975 (No.143) and the accompanying Recommendation (R151)
- The ILO Multilateral Framework on Labour Migration, 2006
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990.

It is very important to take a closer look at the ILO Model Agreement on Temporary and Permanent Migration; annexed to the Migration for Employment Recommendation (Ro86). The model agreement is made up of 29 Articles which cover the conditions that allow for the efficient implementation of labour agreements. According to the ILO Model agreement, parties to BLAs should agree on the following elements and include this explicitly within their agreements if possible:

- A clear channel for the exchange of information between territory of immigration and territory of emigration and ensuring that both parties agree on the essential documents required from migrants. They must ensure that all administrative formalities are agreed upon

in a way to make the migration process as transparent and efficient as possible. In this regard, it is also important to agree on how to address propaganda and ensure that no misleading propaganda relating to immigration and emigration is permitted.

- Parties to an agreement must also decide on methods of recruitment and placement of workers, selection and medical testing of migrants, assistance of migrants upon arrival in the destination country and exchange of trainees and the process of education and vocational training of labour migrants.
- Parties should agree upon methods for the transfer of funds between the country of residence and the migrant workers' home country. This refers to funds needed to initiate settlement, to sending back funds to family and to the exchange of foreign currency.
- Parties to an agreement must decide on the factors that will affect the migrants' stay in the country of destination. This includes supervision of living and working conditions, access to the legal system and the right to equality of treatment in terms of remuneration, memberships of trade unions, admission to schools and recreation and welfare methods. Moreover, parties should ensure that incoming migrants would have access to supply of food, to good housing conditions to social security and the access to trade and the acquisition of property.
- Parties are to outline in the said agreement guidelines for contracts of employment and how and when migrants should receive these contracts, and they should agree on social security plans for migrant workers and on a plan to ensure employment stability. They must also agree on methods of replacing workers in cases of a necessary change of employment.
- Finally, parties must address provisions concerning compulsory return of migrants as well as deciding on the process of the return (whether compulsory or voluntary)
- In a separate agreement, parties should decide on methods to avoid double taxation for migrant workers.

Of course, it follows that parties to a BLA should address means of cooperation and communication throughout the time in which these agreements are in force. Thus, agreements must also determine the duration as well as the period of notice for termination. If necessary, they can also determine the provisions of the agreement which can remain in operation after the expiration/termination of the agreement itself.¹²

Additionally, it is necessary to analyze the agreements in light of other labour standards that apply to migrant workers such as those pertaining to domestic workers, or private employment agencies.

The next instrument, despite being a non-binding document, takes a rights-based approach to the governance of labour migration. The ILO Multilateral Framework on Labour Migration provides a comprehensive guideline that "is a compendium of principles and guidelines on labour migration based on the above instruments, and negotiated through tripartite consultations".¹³

The framework gives effect to the resolution "on a fair deal for migrant workers in a global economy", which was adopted by the 92nd session of the International Labour Conference in 2004. Chapter 2 of the framework provides guidelines for the means for international cooperation on labour migration.

¹² ILO model Labour Agreement, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312424

¹³ Ibid.

This chapter encourages governments to cooperate with one another in order to promote “managed migration for employment purposes”.

The guidelines provided by the framework include the development of information exchange between governments on labour migration issues. They also include developing interstate dialogue regarding migration policy which encompasses social partners, civil society, and migrant workers’ organizations as discussants. The framework then suggests the promotion of bilateral and multilateral agreements addressing different aspects of labour migration. According to the framework these aspects include “admission procedures, flows, family reunification possibilities, integration policies and return, including in particular gender-specific trends”.¹⁴ Similarly, it also calls for the promotion of such agreements “between workers’ organizations in origin and destination countries providing for the exchange of information and transfer of membership.”¹⁵

This study builds on previous work commissioned by the ILO, and checks the BAs/MOUs of Egypt, Tunisia, and Morocco against the following criteria which were set by Piyasiri Wickramasekara, the author of an ILO published study titled “Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review”. The criteria used are as follows:

- Transparency and publicity;
- Evidence of normative foundations and respect for migrants' rights, based on international instruments;
- Specific reference to equal treatment of migrant workers and nationals;
- Provisions to promote fair recruitment practices;
- Addressing gender concerns;
- Social dialogue involving social partners: employers in countries of origin and destination, workers, civil society organizations;
- Coverage of wage protection measures;
- Concrete and enforceable provisions relating to employment contracts and workplace protection;
- Provision for human resource development and skills improvement through in-service training;
- Concrete implementation, monitoring, and evaluation procedures;
- Defining clear responsibilities between partners;
- Provide social security and health care benefits for migrants on par with local workers;
- Provision for free transfer of savings and remittances;
- Prohibition of confiscation of travel and identity documents;
- Provision for recognition of skills and qualifications in the destination country;
- Incorporation of concrete mechanisms for complaints and dispute resolution procedures and access to justice;
- Addressing concerns of vulnerable migrant workers;
- Coverage of the complete migration cycle.

14 ILO Multilateral Framework

15 Ibid

Assessment of Social Security Agreements

There are various ILO instruments outlining the standards on social security of migrant workers. Specific instruments on the social security rights of migrant workers and members of their family were adopted by the International Labour Conference. The conference adopted the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19). The Convention guarantees to nationals of any member state that has ratified the Convention, and who suffer personal injury due to work accidents, equality of treatment with national workers without any condition as to residence. Another relevant instrument is the Equality of Treatment (Social Security) Convention, 1962 (No. 118) which sets forth the right to equality of treatment between national and non-national workers and their family members with a view to specifically addressing the situation of migrant workers in relation to social security.

Another source of inspiration for bilateral and multilateral agreements on the social security coverage of migrant workers is the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48); the first instrument addressing the maintenance of social security rights. The Convention proposed an international mechanism for the coordination of legislation respecting old-age, invalidity, and survivors' pensions. According to Hirose, Nikac, and Tamagno, "the need to broaden and develop further such coordination was one of the elements which led to the revision of Convention No. 48 by the adoption of the Maintenance of Social Security Rights Convention, 1982 (No. 157), which provides for the maintenance of migrant workers' acquired social security rights or rights in course of acquisition."¹⁶

The following criteria used to assess the social security agreements in this study are based on the basic principles that are derived from the above mentioned conventions and have been listed by Hirose, Nikac, and Tamagno in their study titled "Social Security of Migrant Workers: A Rights Based Approach":


- "Equality of treatment, means that a migrant worker should have, as far as possible, the same rights and obligations as the nationals of the destination country;
- Determination of the applicable legislation to ensure, by establishing the rules for determining the applicable legislation, that the social security of a migrant worker is governed at any one time by the legislation of one country only;
- Maintenance of acquired rights and provision of benefits abroad, means that any acquired right, or right in course of acquisition, should be guaranteed to the migrant worker in one territory, even if it has been acquired in another, and that there should be no restriction on the payment, in any of the countries concerned, of benefits for which the migrant has qualified in any of the others;
- Maintenance of rights in course of acquisition, means that where a right is conditional upon the completion of a qualifying period, account should be taken of periods served by the migrant worker in each country; and:
- Reciprocity, is an underlying principle of all these conventions, means that each country which is a party to an agreement undertakes to apply the same mechanisms as every other party to make its social security benefits more accessible to migrant workers. Reciprocity also means that there is a reasonable degree of comparability in the obligations that each party assumes as a result of an agreement. A country that refuses equal treatment to workers from another country cannot expect that the other country will grant equal treatment to its own workers in return. This feature of reciprocity is almost unique to this subject of labour migration."¹⁷

¹⁶ Hirose, K.; Nikač, M.; Tamagno, E. 2011. Social Security for Migrant Workers: a Rights-based approach (Budapest, ILO). Available at: http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_168796.pdf p.8

¹⁷ Ibid

3. Limitations of the Study

The study focuses primarily on the legal content of the BAs/MOUs and social security agreements. The approach has the inherent limitation of not providing an adequate assessment of the actual implementation and the effectiveness of these agreements in practice. It is significant to point out that good practice on paper does not automatically translate into good implementation. Another limitation is the fact that the study does not provide an analysis on national laws but rather focuses on analyzing the content of the agreements.



Labour Agreements,

Memoranda of Understanding
and Establishment/Framework
Agreements

Labour Agreements, Memoranda of Understanding, and Establishment/Framework Agreements

1. Agreements with European Countries

A. Background on Egyptian, Tunisian, and Moroccan Migration to Europe

Europe is a major destination for migrant workers from Morocco and Tunisia. Over the second half of the 20th century, Morocco has evolved into one of the world's leading emigration countries.¹⁸ It has, by far, the largest number of migrants in comparison to other countries in North Africa. Europe is the primary destination for Moroccan migrants, where they represent one of the largest and most dispersed non-Western migrant communities in Western Europe. Data from Moroccan Consulates shows evidence of a rising propensity to emigrate: Moroccans residing abroad more than doubled from 1993 (1.5 million) to 2012 (3.4 million), with an average annual growth rate of 9.9 per cent (compared with a 2.2 per cent population growth rate in Morocco).¹⁹ In 2012, 90.6 per cent of Moroccans abroad lived in Europe, mainly in France (35.4 per cent), Spain (19.9 per cent), and Italy (14.4 per cent).²⁰

With more than 1.2 million Tunisians living abroad in 2012 out of a total population of 11 million, Tunisia is, and has long been, a prime emigration country in the Mediterranean region.²¹ The overwhelming majority of Tunisian migrants, 83.0 per cent, live in Europe, mainly in France (54.5 per cent), Italy (13.9 per cent) and Germany (7.8 per cent).²² Ever since the country's independence in 1956, Tunisian emigration has been heavily dominated by labour migration to Western Europe, especially to France, the former colonial power. In the 1980s, Italy became increasingly attractive for low-skilled Tunisian workers due to its geographical proximity and the absence of immigration restrictions. Following Europe's restriction on visas and the tightening of border controls in the early 1990s, permanent settlement, irregular entry, and overstaying became structural features of Tunisian emigration. Despite restriction and tightening border control due to soaring unemployment among Tunisian youth, new flows are still taking place.

18 Hein de Haas, Morocco: Setting the Stage for Becoming a Migration Transition Country? <http://www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country>

19 Morocco Migration Profile, Migration Policy Centre, http://www.migrationpolicycentre.eu/docs/migration_profiles/Morocco.pdf

20 Ibid.

21 Katharina Natter, Revolution and Political Transition in Tunisia: A Migration Game Changer? <http://www.migrationpolicy.org/article/revolution-and-political-transition-tunisia-migration-game-changer>

22 Tunisia Migration Profile, Migration Policy Centre, http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf

The Gulf Cooperation Council (GCC) and other Arab countries are the main destinations of Egyptian labour migration. In one estimate, Egyptian migrant workers in Europe only constitute 5 per cent of the total volume of Egyptian labour migration workers with 204,814 migrants.²³ They are concentrated in Italy, Greece, the United Kingdom (UK), and France. Another source estimates only 2.2 per cent of Egyptian migrant workers in Europe.²⁴ Despite the fact that Europe is not a major destination of Egyptian migrant workers, there are a number of agreements that were concluded between Egypt and European countries.

B. Overview of Selected Agreements

For the purpose of this research, the following agreements were analyzed:

Table 1: List of Agreements Analyzed in this Section

Party 1	Party 2	Agreement
Egypt	Bulgaria	Egypt-Bulgaria Agreement of 1972
	Italy	Agreement on Cooperation in the Field of Labour Migration of 28 November 2005
		Protocol on the Implementation of the Agreement on Cooperation in the Field of Labour Migration of 12 May 2009
		Memorandum of Understanding between the Ministry of Employment of Italy and the Ministry of Manpower in Egypt on Cooperation in the Field of Labour Migration
	Greece	Agreements on the Strengthening the Cooperation in Relation to Employment of 18 April 1981
Morocco	France	The Labour Convention of 1963
		The Agreement on Stay and Employment of 1987 which completed the 1963 Convention
		Exchange of Young Professionals 2001
	Spain	Morocco-Spain Agreement on Labour of 25 July 2001
		The Framework Partnership Agreement between ANAPEC and the Municipality of Cartaya of July 2006

23 Françoise De Bel-Air, Migration Profile: Egypt, Migration Policy Centre
http://cadmus.eui.eu/bitstream/handle/1814/39224/MPC_PB_2016_01.pdf?sequence=1&isAllowed=y

24 Wahba, J. (2010). Labor Markets Performance and Migration Flows in Egypt. Chapter I – National Background Paper. European Commission. Occasional Paper 60, Volume III.

Party 1	Party 2	Agreement
Tunisia	France	Agreement on Labour of 21 November 2005
		The Tunisian-French Agreement of 17 March 1988 on Residence and Work
		The Tunisian-French Agreement on Exchange of Young Professionals of 4 December 2003
		The Tunisian-French Agreement of 28 April 2008 on the Joint Management of Migration and Development
	Switzerland	Cooperation Agreement on Migration of 11 June 2012
		Exchange of Young Professionals of 11 June 2012
	Germany	Agreement of 23 July 2013
		Memorandum of Understanding of 21 October 2014
	Italy	Agreement on Seasonal Work of 15 May 2001

Egypt has signed a series of BLAs and MOUs with European countries such as Bulgaria, Italy, and Greece. The BLA between Egypt and Bulgaria was signed in 1972, and consists of 14 articles. The agreement with Greece was signed in 1981 and focuses more on employment rights, while that with Bulgaria focuses on ensuring equal standards of living as per articles 4 and 6 respectively.

One of the most significant BLAs signed by Egypt is that which was signed in November 2005 with Italy. This was signed and followed by an implementing protocol and an MOU, both of which will be discussed below. The actual agreement with Italy consists of 12 articles, many of which make reference to the implementing protocol for details. Primarily, this agreement like the other two calls upon the competent authorities of both contracting parties to work together to regulate migrant labour flows in accordance with the demand and supply of their labour markets and encourages the constant exchange of information between them.

However, unlike the agreements with Greece and Bulgaria, this BLA makes specific reference to the responsibility of the competent authorities of the sending state to ensure that migrant workers do not constitute a threat to the security and public order of the receiving state. The implementing protocol, which was signed on the same day as the agreement, goes into more detail about the executive procedures of implementation. It provides more detail regarding the requirements of Egyptian workers to be employed in Italy. The main focus of the protocol is to stress the need for the consistent and transparent exchange of information regarding supply of labour in Egypt and the demand for labour in Italy.

The three strategic European partners to Morocco are Spain, Italy, and France. With Spain, the labour agreements are: a) Agreement on Residence and Employment, signed in Rabat on February 6th, 1996 and entered into force on March 7th, 1997. The agreement covers residence permits and reciprocity; and b) the Administrative Agreement Concerning Moroccan Seasonal Workers in Spain, signed in Madrid on September 30th 1999. However, the main legal instrument is the BLA signed on July

25th 2001, which repeals the previous agreements. As stated in its preamble, the agreement aims to regulate orderly and coordinated labour flows between the two countries. This agreement has been the basis for the conclusion of three other agreements.

For the purpose of this study, only one of those agreements will be analyzed and it is the Partnership Framework Agreement between ANAPEC and the Municipality of Cartaya which came into force in July 2006.

With Italy, Morocco has signed the labour agreement of 21 November 2005. Until today, Italy remains a significant destination country of Moroccan migrant workers. The objective of this agreement as outlined in article 2 is “the regulation and organization of labour flows between the two countries” through their competent agencies who shall “facilitate the recruitment and integration of nationals of the other Party in the internal labour market” in the case that the domestic workforce is unable to satisfy the demand for certain vacancies.

The bilateral cooperation on labour migration between France and Morocco is based on the Labour Convention of 1963 through which Morocco officially became a labour provider for France. The Moroccan Parliament ratification was not required and the Agreement on Stay and Employment of 1987 which completed the 1963 Convention included provisions relating to the French nationals living and working in Morocco. It was ratified by the Moroccan Parliament on September 10th 1993 and came into force on January 1st 1994. The Franco-Moroccan agreement of 1963 had three main objectives. Firstly, to better organize workers’ mobility and combat fraud and irregular recruitment. Secondly, to respond to the pressing needs of an economy becoming fully industrialized. And thirdly, to strengthen cooperation between the two countries. It was, therefore, “an instrument of administrative re-appropriation of immigration management, a tool for promoting legal labour migration and a traditional instrument of foreign policy.”²⁵ The Agreement on the Exchange of Young Professionals is another agreement that forms the basis of French-Moroccan cooperation in the field of migration. The agreement focuses on individuals under the age of 35. The agreement is very limited since it includes a quota of only 300 French and Moroccan workers in total.

For Tunisia, three agreements with France, two with Switzerland, one with Germany, and one with Italy have been included in the analysis. There is also one MOU with Germany that is incorporated in the analysis. Since independence on March 20, 1956, Tunisia has signed several cooperation agreements with France. One of the major agreements is the Agreement of Residence and Work of 17 March 1988. The agreement was amended in 2000 and 2008. This agreement seeks to set, in a sustainable manner, the situation of Tunisian nationals in France and the French nationals in Tunisia regarding all issues related to living conditions, set up and organize a way to facilitate the access to employment of nationals of both countries when they are on the territory of the other, and organize and set the standards for the living conditions and access to work for family members of citizens of both countries when they are in the territory of one or the other country.

25 Jolivel, Audrey. (2014). “Negotiating Labour Migration: A Comparison of French and Spanish Bilateral Labour Agreements with Morocco”. FIERI Working Paper. Available at <http://grupodeestudiosafricanos.org/cms/wp-content/uploads/2015/06/JOL-IVEL-2014-French-Spanish-Bilateral-Labour-Agreements-Morocco-Report.pdf>

The second agreement that will be analyzed is the one on the Exchange of Young Professionals signed on 4 December 2003. As part of the promotion of cooperation between Tunisia and France, this agreement was concluded to provide vocational training for young graduates of both countries. The agreement covers the exchange of young professionals who travel to exercise paid employment on the territory of the other state for a period not exceeding 18 months. According to the second article of the agreement, the young professional is defined as any person between the age of 18 and 35 who holds a degree corresponding to the qualification of the job offered in the state concerned. The primary objective of this agreement is to promote the mobility of Tunisian and French young people entering the workforce or those who have professional experience. The exchange is limited to the agricultural, industrial, commercial, health, social, and crafts sectors.

The third agreement of Tunisia is the one on the Joint Management of Migration and Development of 28 April 2008. To further strengthen their cooperation and strategic partnership, Tunisia and France signed this new framework agreement on the joint management of migration and development. The agreement was concluded in a new approach which takes into account the contribution of migration to social, economic, and cultural development from a sustainable development perspective. It was concluded after a series of events related to migration and development including the 5+5 Dialogue of Ministers, the Euro-African Conference on Migration and Development organized in Morocco in 2006, and subsequent conferences as well.

After the Tunisian revolution of January 14th 2011, the relations between Tunisia and Switzerland saw the conclusion of two important agreements in 2012. The first is a cooperation agreement on migration, while the second is on the exchange of young professionals. The Cooperation Agreement on Migration, signed on the 11th of June 2012, aims to regulate and to organize the entry, stay, and return of persons in the territory of both countries. The objectives of the agreement are as follows: a) ensure the management of migration between the two countries to ensure economic, cultural, and social development; b) ensure the implementation of the provisions of international legal instruments concerning the rights of migrant workers; c) promote cooperation between the two countries in responding to irregular migration and combating criminal activity involving smuggling networks; and d) adopt a return migration policy while promoting the integration of migration into development strategies.

The agreement on the exchange of young professionals was signed on the same day as the previously mentioned agreement. The purpose of this agreement is to encourage the development of young professionals from Switzerland and Tunisia, consolidate relations between the two countries, and improve the professional and language skills of the participants. The agreement is limited to youth between 18 and 30 years of age who have a vocational degree or at least two years of university education. However, only 150 slots are available through this agreement regardless of the needs of the labour market of the host country.

Italy is the second major host country of Tunisian migrants in Europe after France. It is an attraction to Tunisian workers who seek irregular methods to migrate to Europe due to its close geographic location. An agreement on seasonal work was signed on May 15th 2001 to provide exchange of information of the needs regarding seasonal workers and the regulations they must follow during their temporary residence in Italy.

Germany is the third largest host country for Tunisian workers after France and Italy. It has recently become a major attraction to Tunisian students who choose to continue their education in German universities. Following the 2011 revolution, Tunisian and German authorities began looking for new opportunities to promote labour mobility to meet their employment needs. The two countries have signed the economic and political cooperation agreement designed with the aim to support Tunisia in its political process to facilitate its democratic transition. The agreement signed on July 23rd 2013 targets the health sector and in particular the nursing field. As for the MOU signed on the 21st of October 2014, the target is engineers working in the technological sector.

C. Analysis of Agreements

1. Transparency and publicity

Awareness about the content of agreements that define the rights and obligations of all parties is of extreme importance to the migrant workers, employers, and states of both countries of origin and destination. The main criterion here is whether the text of the agreement is available in the public domain. The MOU between Italy and Egypt concerning the implementation of the Agreement on Cooperation in the Field of Labour Migration signed on 28 November 2005 included an article to ensure the visibility of their agreements. Article 13 of the MOU states “the Contracting Parties undertake to disseminate, on their national territory, the provisions of the present Memorandum.” However, placing the agreements in the public domain does not automatically ensure accessibility by the average migrant workers or their employers. What is more important is the briefing of both parties on major provisions of the agreements. Leaflets, brochures, and pre-departure trainings are not produced regularly across the various agreements analyzed. Unfortunately, there is little evidence to suggest that such briefs have taken place effectively in any of the three countries. It is also observed that online availability of the agreements is very limited.

This has proven to be a major weakness in the implementation of various agreements. For example, with regard to the Tunisian-France agreement on exchange of young professionals of 2003, a major limitation to the fulfillment of its objectives is the lack of information and awareness about the program. It has been observed that possible participants lack knowledge on the program and for this reason it is difficult to reach the beneficiaries. The same limitation exists in the case of the Agreement on the Exchange of Young Professionals between Tunisia and Switzerland, Tunisia’s agreement with Germany, and Morocco’s Agreement on the Exchange of Young Professionals with France. Lack of information on these agreements has resulted in limited numbers of participants taking part in these mobility partnerships.

2. Evidence of normative foundations and respect for migrant rights, based on international instruments

It is common for agreements to include specific reference to national laws. However, it is equally significant for agreements to include provisions and/or make reference to international instruments for the purpose of upholding the rights of migrant workers. Such provision is available in the Egypt-Italy agreement of 2005 in which the agreement makes reference to the provisions of international

law and obligations. Egypt's other agreements with Greece and Bulgaria also makes reference to migrants' rights under international law. Reference to international instruments is also available in Tunisia's Cooperation Agreement on Migration with Switzerland. As mentioned above, ensuring the implementation of international legal instruments on the rights of migrant workers is articulated as a major objective of the agreement.

3. Specific reference to equal treatment of migrant workers

The agreements provide reference to equal treatment of migrant workers in various ways. The agreements of Egypt with Greece, Bulgaria, and Italy require the receiving states to ensure that migrant workers enjoy the same rights and privileges as nationals. The agreement with Greece focuses more on employment rights while that with Bulgaria focuses on ensuring equal standards of living. In the agreement with Italy, article 7, the equal treatment clause stipulates that "migrant workers enjoy the same rights and the same protection accorded to workers who are nationals of the receiving state, including social security, in accordance with the regulations of the receiving states." Similarly, the agreements of Morocco are developed on the basis of reciprocity. For example, the agreement signed with France in June 1963 stipulates in article 8 that "Moroccan workers enjoy in French territory the same treatment as French workers regarding hygiene conditions, security, housing, wages, paid leave, and unemployment." The Tunisian-French agreement of 2003 also makes specific reference to equal treatment of Tunisian professionals to French nationals on all matters related to contracts and working conditions as well as health and safety. Such provisions are important insofar as they ensure equal treatment, but also make reference to coverage of wage protection measures, employment contracts, and workplace protection and social protection.

4. Provisions to promote fair recruitment practices

There is an "increasing attention on recruitment costs as major causes of poor governance and protection gaps in labour migration."²⁶ However, most agreements do not mention the need to reduce costs or to prevent recruitment malpractice. This is the case despite the fact that high recruitment fees often result in high debt burdens and erosion of savings and remittances, which ultimately have negative results on countries of origin and destination as well as the migrants themselves. The agreements often refer to recruitment. However, "ethical recruitment" or "ethical practice" is not mentioned. This is not to say that all agreements fall short of this principle.

In the Egypt-Bulgaria agreement of 1972, the agreement states that it is the responsibility of the receiving country to grant workers entry visas at its own expenses as well as cover the travel expenses as per the stipulations under article 5 of the BLA. Likewise, the Egypt-Italy MOU stipulates in article 5 that Egyptian candidates will not bear any cost during the selection phase. Article 6 also stipulates that the candidates will not bear any cost for the training courses.

According to the Tunisian-French agreement of 2003, the candidate is granted an amount to cover daily expenses. This amount depends on the salary that shall be received in the country of destination. The agreement stipulates that the young professional shall bear the travel cost unless s/he is able to secure a contract with an employer who is willing to provide partial or full coverage of the travel costs.

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5. Addressing gender concerns

The majority of the agreements analyzed in this section lack the gender component. The omission of provisions related to gender is common across all regions of the world. The Framework Partnership Agreement between ANAPEC and the Municipality of Cartaya, which was referred to above for including specific wage criteria, includes strict standards on the selection criteria for seasonal migrants. However, they must be under forty years of age, must be mothers, and have the permission of their husbands. As for the agreement between Tunisia and Switzerland on the exchange of young professionals, it addresses gender equality as it promotes the involvement of female young professionals in the exchange.

6. Social dialogue involving concerned stakeholders

The Egypt-Italy agreement of 2005 is an example of an agreement that encourages social dialogue between state actors, employers, trade unions, and institutions to promote activities related to the selection and training of migrant workers. This agreement is the only examined one that includes a provision on such a matter. Promotion of social dialogue entails that governments and social partners should consult with civil society organizations as well as migrants' associations, which is not present in the agreements. As a result, secondary sources are needed to establish actual practice relating to social dialogue.

7. Wage protection measures

With regards to the coverage of wage protection measures, the agreements were examined to see if they include specific clauses on wages, including some of the following: minimum wage, compensation for overtime work, allowable deductions, date of payment, issue of receipts, and payment. None of the agreements covered in this analysis includes any provisions of such sort with the exception of the Framework Agreement between ANAPEC and the Municipality of Cartaya (between Morocco and Spain), and the Tunisian-French agreement of 2008 on the Joint Management of Migration and Development. According to the Framework Agreement, migrant workers will work for three months collecting strawberries for a salary of 32.45 Euros per day, and the employer provides accommodation. In the case of the 2008 Tunisian-French agreement, Tunisians who graduate from a French institution of higher education or a Tunisian institution that works within a framework of cooperation and partnership with a French institution are authorized to seek employment in France provided that the remuneration to which they are entitled is equivalent to at least one and half times the guaranteed monthly wage in France.

8. Concrete and enforceable provisions relating to employment contracts and workplace protection

Some agreements, such as the Tunisia-French agreement of 2003, make reference to employment contracts and workplace protection. However, none includes model written contracts, provisions for ensuring compliance in the workplace, including enhanced labour inspection and complaint procedures in line with international labour standards. It is only the Egypt-Bulgaria BLA that provides for

the specific contents of individual contracts between employers and migrant workers. Such provisions are significant in ensuring the safety of migrant workers and their employment conditions. However, these provisions lack the details to ensure actual implementation on the ground.

9. Provision for human resource development and skills development through in-service training

The agreements provide for various provisions for the development of human resources and improvement of skills. The most common tool through which capacity development and skills improvement takes place is training. In the case of the framework of the partnership between Italy and Egypt, training is to take place before departure. According to this partnership, the contracting parties, in compliance with their national legislation, shall foster the linguistic and vocational training of the Egyptian candidates who are filtered from the selection process. Such training is necessary in order to meet the demand of the labour market for the qualified profiles. The same provisions exist as part of the MOU between the National Agency of Employment and Labour of Tunisia and its German counterpart. The MOU also aims at providing intensive language training to prepare the migrants to undertake vocational training in Germany for two months. Such training would make them eligible for an internship in Germany with the possibility of employment later.

In the case of Morocco, the Order of the Ministry of Labour and Social Affairs of 2 February 2007 (TAS/195/2007) defines the terms of the concession of grants to finance training programs to migrant workers. These programs are aimed at the integration of migrant workers in the country of destination by providing them with training in their country of origin.

In the case of the Moroccan-French agreement, the joint committee that was created by the agreement to implement the convention met in 1978 and decided that training should no longer be limited to migrant workers but should be expanded to become more of an institutional support to the Moroccan authorities to build the capacity of the national authorities. The objective was to allow for the creation of institutes and vocational training centers. This demand has led to the signing of an MOU between the French National Association for Adult Vocational Training (AFPA) and the Moroccan Office of Vocational training and Work Promotion (OFPPT). At the request of the OFPPT, a new convention was developed and signed in the framework of the Joint Committee in January 1985. The Protocol on vocational training attached to the labour agreement was amended in February 1988. It also replaced the convention of the AFPA/OFPPT and adopted an annual program approved by a joint technical committee.

In another context, the Framework Agreement between Morocco and Spain created an office called “Hispano-Moroccan Centre of Employment and Training” in Morocco in Kenitra and Nador. The overall objective of the project is to offer assistance to employers and their professional associations and to seasonal workers and to ensure job processing of labour demand originating in Huelva, Spain.

In the case of Tunisia, the 2003 agreement with France concerning the exchange of young professionals is in itself a training experience. The agreement, which is very attractive to young professional Tunisians, is a tool for Tunisia to promote the training of its workers. It also allows Tunisian candidates to acquire

new professional skills and enrich their technical experience. As a result, it maximizes their opportunity to access a secure job in Tunisia or in any other country. However, the fact that the agreement is limited to a maximum of 18 months puts in question the extent to which this objective can be fulfilled. A longer period may be necessary to allow participants to adapt to the new context of living and working conditions.

The same concept applies to the young professionals exchange agreements between Tunisia and Switzerland. The exchange program's central aim is to enhance the professional and language skills of the young professionals participating in the program.

10. Concrete implementation, monitoring, and evaluation procedures

Concrete implementation, monitoring, and evaluation procedures are significant indicators for any agreement to guarantee fruitful prospects. Agreements should include provisions that refer to the establishment of joint committees, their composition, frequency of meetings, involvement of social partners, appointment of a dedicated focal point, or other specific clauses on monitoring and evaluation. Examples of such clauses can be derived from various agreements of the three countries in examination.

Egypt's agreements with Greece and Bulgaria include articles for the creation of joint committees to ensure effective implementation of the agreements' provisions. These committees are to update and amend the agreements in order to meet the changing conditions of both parties. The agreement with Italy does not include the creation of a joint committee. However, Article 12 of the MOU, entitled bilateral consultations, calls for the creation of a joint high-level steering committee to follow up on the implementation of the MOU. More specifically, it shall monitor the implementation and submit proposals for ensuring a good functioning, regularly evaluate the memorandum, solve practice problems which could hamper the implementation of the MOU, recommend amendments, and solve any conflict which may arise concerning the implementation of the memorandum.

In Morocco's agreement with France, Article 14 calls for the establishment of a joint committee that meets at the request of either party. It is also responsible for monitoring the implementation of the agreement, propose amendments, and resolve problems. However, the committee has met irregularly. The first meeting was held on 20-22 January 1976, 13 years after signing the agreement. Article 1 of Morocco's agreement with Italy does not create a joint committee, but calls on the representatives of the contracting parties to consult regularly to follow-up on the implementation of the agreement and propose measures for revisions, undertake periodic evaluation of the agreement, and resolve practical difficulties that may hinder the implementation of the agreement.

11. Defining clear responsibilities between partners

The establishment of these committees is also significant insofar as they help define the responsibilities between partners. Some agreements "spell out obligations of a first and second party, migrant workers, and their employers." It is observed that in the case of Tunisia's agreements, a lot of emphasis is placed

on the role of the migrant worker. The agreement of 2003 places the obligation on the candidate to contact employers in France in order to conclude an employment contract. The French administration can facilitate the search for jobs by putting at their disposal all necessary documentation and get employers to promote their job opportunities. The majority of agreements refer to the exchange of information regarding the markets of the contracting parties. Countries of destination are to communicate their market needs in order to better select migrant workers who are in demand.

The Egypt-Bulgaria BLA highlights with great detail the financial responsibilities of each party when receiving workers. It is the responsibility of the country of destination to grant workers entry visas at its own expense as well as cover travel expenses as per the stipulations under article 5 of the BLA. The country of origin is required to provide workers with the necessary medical certifications issued by state medical institutions.

Articles 1 and 2 of Egypt and Italy's implementing protocol calls for the establishment of a public list compiled by the authorities of both parties to show the available job opportunities and their requirements as well as the potential supply of migrant workers and their qualifications.

Similarly, Article 3 of the 2001 agreement of Morocco and Spain details the roles of the Spanish and Moroccan authorities. The Spanish authorities, through the Spanish Embassy in Rabat, shall communicate the demand for labour (numbers and characteristics) based on existing vacancies to Moroccan authorities. In response, the Moroccan authorities shall endeavor to meet this demand for labour by recruiting Moroccan workers who are suitable and willing to go to Spain.

Tunisia's agreements include specific provisions indicating the duties of each stakeholder. Its agreement with Switzerland regarding the exchange of young professionals outlines the steps and obligations of each party to fulfill. Even though the duties of the parties are detailed, a major weakness in the implementation of the agreement is the complexity of the administrative process of obtaining the permission of employment under the exchange program. The steps do not include a system of communication and coordination between the two parties to bring young professionals in contact with employers. In sum, the inclusion of specific duties of each party in the agreement is positive but it does not necessarily translate into smooth implementation.

12. Social security and health care benefits

Social security and health care benefits for migrant workers should be provided on the basis of the equality of treatment. Social security will be covered in greater depth in the chapter on social security agreements.

13. Transfer of savings and remittances

Egypt's agreements with Bulgaria and Greece include detailed clauses on the transfer of wages, savings, and insurance entitlements from country of employment. The agreement with Italy allows for the transfer of earnings and savings back to the country of origin. In fact, all of Egypt's agreements include clauses on the transfer of savings and remittances from the country of destination to the country of origin.

14. Coverage of the complete migration cycle

The final indicator for assessing bilateral agreements is coverage of the complete migration cycle. This indicator analyzes whether the agreements cover the migration cycle (pre-departure, working abroad, and return and re-integration). Several agreements frame return and re-integration provisions in the spirit of improving development outcomes for countries of origin. In this context, a number of agreements include a focus on re-integration support to returnees. This is commonly achieved through “remittance facilitation, skills training oriented to needs in the country or origin, and also funding for enterprise development on return.” The Tunisian-French agreements are examples, in particular the Exchange of Young Professionals Agreement.

15. Major gaps in agreements

All of the agreements analysed lack provisions on the recognition of skills and qualifications in the destination country and mechanisms for complaints and dispute resolution procedures. This does not come as a surprise due to the fact that such provisions are rarely present in labour migration agreements worldwide.

The BLAs of the region also lack a coherent emphasis on the rights of vulnerable migrants. A survey of these agreements shows that only one agreement includes reference to irregular migrants. The agreements do not cover at all other categories of vulnerable migrants. According to article 16 of the BLA of Morocco-Spain of 2001, the Moroccan and Spanish authorities are to strengthen cooperation in the field of migration management, with particular emphasis on labour legislations, in order to prevent the exploitation of undocumented Moroccan migrants.

2. Agreements with Arab Countries

A. Background on Egyptian, Tunisian, and Moroccan Migration to Arab Countries

This section deals with bilateral agreements and MOUs concluded by Egypt, Morocco, and Tunisia with Arab countries that are not in the North Africa sub-region. In terms of destinations, Egyptian, Moroccan and Tunisian migrations are starkly different. The largest part of Egyptian labour migration is in the Gulf Cooperation Council (GCC) countries, Jordan, and Libya. Comparatively, Moroccan and Tunisian migrations to Arab countries are scanty. The exception is Libya for Tunisian migration. European countries are their essential destinations. There is significant presence of Moroccan migrant workers in Saudi Arabia (35,724 migrants), and yet there is no agreement between the two countries.

B. Overview of Selected Agreements

With regards to Arab countries, Egypt has signed agreements with Iraq and Yemen concerning the regulation of the employment of Egyptian manpower.²⁷ However, these were signed in 1988 and 1997 respectively and are of little functionality given the political situations in the two countries. Egypt has

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also signed agreements and MOUs with other Arab states. This study will focus on the one with Jordan in 1985, and a subsequent MOU signed in 2007, and another one in 1993 with the State of Kuwait. The agreement signed between Egypt and Jordan is to outline the guidelines for the organization of migration of Egyptian labourers to work in the Hashemite Kingdom. It was revisited in 2007 with the signing of an MOU in Amman. As for the agreement with Kuwait, the two states signed a technical cooperation agreement concerning the movement of labour force in 1993. There is also an MOU between Egypt and Saudi Arabia regarding a training, qualification, and recruitment company for Egyptian workers in Saudi Arabia, especially in the field of medical support services. However, this MOU could not be accessed. Morocco has signed labour agreements with four Arab countries. The first was signed in 1981 with Qatar, followed by the ones with Iraq and the United Arab Emirates (UAE). The last one was with Jordan in 1983. The labour agreement between Morocco and the UAE will be analyzed below.

Tunisia has an agreement with Qatar, which is also analysed in this section. The emigration of Tunisian workers to Qatar was organized by the first agreement signed between the two countries on November 20, 1981. Then in 2010, following the joint meeting held on the 15th and 16th of December 2010, the two countries concluded an additional Protocol which aims to fill vacancies in Qatar with Tunisian labour. In the various meetings, the Qatari party expressed their desire to recruit highly qualified Tunisian workers and give them priority. It is within this framework of cooperation that a branch of the National Agency on Employment and Labour was created at the Tunisian Embassy in Qatar since December 2014. In this branch, a designated employment counselor is placed to liaise with Tunisian employers in Qatar regarding job opportunities for Tunisian workers.

C. Analysis of Agreements

A common practice that can be derived from the three agreements (Egypt-Jordan, Egypt-Kuwait, and Morocco-UAE) is the outlining of the responsibilities of each partner. MOUs and agreements should contain annexes relating to the responsibilities of governments and the three parties: employers, workers, and recruitment agencies. In the case of the Egypt-Jordan MOU, the Jordanian Ministry of Labour is to assess the needs of the Jordanian labour market and as such demand the necessary labour from Egypt. In order to work in Jordan, Article 1 states that the Jordanian law requires the workers to undergo a medical examination, provide a certificate of non-conviction and a professional certificate providing evidence of their occupations. The agreement gives authority to the Jordanian Ministry of Labour and the Egyptian Ministry of Manpower to carry out the provisions of the MOU. As for the agreement with Kuwait, Article 6 briefly mentions that the competent authorities in both countries are to take action to facilitate the procedure of movement of workers. These responsibilities are also briefly discussed in the Morocco-UAE agreement.

The primary observation about the agreements of Egypt, Morocco, and Tunisia with Arab countries is the fact that they do not provide as much details and precision as the agreements with European countries. First and foremost, there is no reference to the principle of equal treatment. It is observed by Wickramasekara, who has analyzed Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers that “equality of treatment may not always be provided for, where migrants are mostly hired for temporary migration schemes”.²⁸ The agreements clearly

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lack considerations of gender concerns. They also do not address concerns of vulnerable migrant workers. The agreements lack articles that promote social dialogue among employers' and workers' organizations. They do not include coverage of wage protection measures, concrete and enforceable provisions relating to employment contracts and workplace protection, provisions for the free transfer of savings and remittances, and social security and healthcare benefits. There is no mention either of the prohibition of confiscation of travel and identity documents.

A major weakness of these agreements is the fact that they do not promote fair recruitment practices despite the risk of recruitment malpractice of migrant workers in the Gulf and Jordan labour markets and elsewhere. The fact that these agreements do not provide adequate measures to limit these practices is problematic. However, Article 2 of Egypt's agreement with Jordan calls for the creation of a database of potential Egyptian workers who wish to work in Jordan, and through this database the Jordanian authorities will do the selection. While this initiative might decrease the number of malpractice cases due to the fact that the implementing parties are state institutions, more provisions detailing the concrete implementation mechanisms are advisable.

The Egypt-Jordan agreement and the Morocco-UAE agreement provide for the creation of joint committees to be responsible for implementing the provisions. In contrast, the Egypt-Kuwait agreement does not stipulate the creation of such a committee. However, the agreement makes reference to the application of local laws and regulations of the country of destination but without an oversight mechanism.

3. Agreements within the North-African Sub-Region

A. Background on Egyptian, Tunisian, and Moroccan Migration in North Africa

The significant migration flows in the sub-region involves the countries of the Maghreb: Morocco, Tunisia, Algeria, and Libya. According to their political, economic, and social interests, these countries have introduced ways in which they can improve their relations and the employment of their citizens in each other's labour market. In this context, Tunisia and Morocco have concluded establishment and labour agreements with each other and with Algeria and Libya.

Migration of Egyptians in North Africa is only significant to Libya. However, to date, there is no bilateral labour agreement between Egypt and Libya. This is despite the fact that according to Egyptian consular statistics in 2009, approximately 30.9 per cent of Egyptian migrant workers were in Libya thus representing the highest percentage of Egyptians abroad. In the case of Tunisia, Algerian migrants represent the largest number of migrant workers (9,996), followed by Libyans (8,772), then Moroccan (5,565). In the case of Morocco, Algerians also represent the largest percentage of the foreign Arab workforce, representing around 13.4 per cent. The following analysis is about Morocco's and Tunisia's agreements.

B. Overview of Selected Agreements

The following agreements will be analyzed:

- Treaty of the Arab Maghreb Union (AMU).
- Morocco-Algeria Establishment Agreement of 1963; Protocol of 1969.
- Morocco-Libya Labour Agreement of 1984 (which revoked the Labour Agreement of 1965).
- Morocco-Tunisia Convention of 1966.
- Tunisia-Morocco Establishment Agreement of 1966.
- Tunisia-Algeria Establishment Agreement of 1963.
- Tunisia-Libya Agreement of 1961.
- Tunisia-Libya Convention of 1974.

C. Analysis of Agreements

The AMU was founded after several attempts to establish a regional entity comprising countries of the Arab Maghreb. The Treaty establishing the AMU was signed in Marrakech in 1989 and includes the five countries in the region: Algeria, Morocco, Tunisia, Libya, and Mauritania. The objective of the Union is to create a new space in which this regional structure would promote the free movement of people, goods, capital, and services. In its preamble, the founding treaty openly states that this new regional structure seeks to address and meet the aspirations of its people and its leaders to achieve a union able to consolidate all agreements that are already established between different countries of the Union and to allow them to find more opportunities to combine their appropriate means to achieve integration and growth.

Furthermore, the second article of the treaty specifically states that the Member States of the Union should work progressively to achieve the free movement of people, goods, and capital. This approach should in effect promote open employment markets of each Member State and promote greater mobility of labour in the Maghreb space. However, in practice, such aspirations have not materialized. First and foremost, the treaty of the AMU, the establishment agreements, and labour conventions among the countries of the Maghreb suggest that in principle equality of treatment is guaranteed. Within the framework of cooperation between Tunisia and Morocco, the agreement of 1966 stipulates in its first article that nationals of both Contracting Parties and holders of valid passports may freely enter, circulate, stay or settle in, and leave the territory of the other contracting party at any time without being subject to conditions other than those that apply to nationals. The agreement specifically provides for equality with regard to the right to employment. It guarantees that the nationals of each Contracting Party shall enjoy the right to work in the territory of the other. This is also the case for the establishment agreement of Tunisia and Morocco with Algeria.

The Tunisia-Algeria Establishment Agreement of July 26, 1963 reiterates this right in Article 5 which commits the States to recognize all the economic rights of nationals of both parties. In practice, the right to employment is not absolute. Its application highly depends on the socio-political context. This can be deduced from the procedural and administrative difficulties and constraints placed on

migrant workers wishing to work in the contracting parties. Across the region, employment of migrant workers is still limited to certain professions and occupations, and migrants must also obtain specific authorization in terms of approval of their employment contracts. Workers from partner countries have to go through the same processes as migrant workers from all other third countries. For example, Moroccan nationals residing in Tunisia are obliged to obtain a residence permit from the services of the Tunisian Ministry of Interior in accordance with the regulations governing the organization of stay of all other foreigners.

In a decision dated February 2nd 1998, the Tunisian Court of Cassation canceled the employment contract of a Moroccan employee even though he had a work visa simply because his residence permit did not include the words “authorized to exercise paid employment in Tunisia”, which is required by the Labour Code. The court did not take into consideration the Establishment Agreement of Tunisia and Morocco which has legal value since it overrides the provisions of the Labour Code.

It is argued that Tunisia has introduced these forms of restrictions to prevent and decrease the cases of migrant exploitation. It has been observed that there are cases of Moroccan workers working in appalling conditions and without any coverage and/or social protection. However, the fact remains that the agreements themselves do not provide adequate safeguards against such exploitation. The agreements lack provisions to promote fair recruitment practices, coverage of wage protection measures, and concrete and enforceable provisions relating to employment and workplace protection, and social security and health care benefits for migrant workers.

In respect of the Algeria-Tunisia Establishment Agreement, it is observed that in practice, there has been significant improvement in it since mid-2012. As of this date, Algerian workers in Tunisia became exempted from the certification of approval of the employment contract required for Moroccan workers. It is argued that such flexibility has been introduced for Algerian workers because they are relatively highly skilled and occupy jobs in the industrial and technological sectors or invest in business that contribute to providing employment opportunities for Tunisians. Unfortunately, this flexibility is not observed in the case of Tunisians working in Algeria. Since the revolution of 2011, the Algerian authorities have imposed work permits on Tunisian workers. This authorization is issued by the Ministry of Employment in Algeria and is a prerequisite for Tunisian citizens to obtain a residency card.





Social Security Agreements

Social Security Agreements

1. Background

Access to social security is a fundamental right that is enshrined in the Universal Declaration on Human Rights (1948) and other international legal instruments. The term 'social security' covers "all measures providing benefits, whether in cash or in kind, to secure protection, inter alia, from a) lack of work-related income (or insufficient income) caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; b) lack of (affordable) access to health care; c) insufficient family support, particularly for children and adult dependents; and general poverty and social exclusion."²⁹ As such, the two main functional pillars of social security are income security and availability of medical care as reflected in the Declaration of Philadelphia (1944), which informs the ILO's Constitution. Access to social security is primarily a public responsibility in which public institutions that are financed by contributions or taxes or both provide the benefits. However, social security can also be delivered through private entities.³⁰

Access to social security in host and origin countries affects the level of vulnerability of migrant workers. The portability of benefits between host and origin countries is important to avoid losses of accrued entitlements. Similarly, the accumulation of periods of contribution is another significant element of social security agreements. It is important for labour market conditions for migrants in host countries and the recruitment process for migrants in the countries of origin to strike a balance between employers' needs and workers' protection and rights.³¹

The portability of social security entitlements refers to the ability of migrant workers to "preserve, maintain, and transfer benefits from a social security program of one country to another and between localities in a country (special portability), between jobs, and between members within a household (social portability)."³² Portability is of extreme importance for long term benefits that have an "explicit or implicit pre-saving element as in the case of old-age pensions and health insurance, respectively."³³ Without such protection, migrants risk serious financial losses.

In principle, bilateral social security agreements should ensure that the social security rights acquired in the country of employment are maintained. They also provide for the export of benefits from country of employment to the country of origin. They usually include provisions on non-discrimination and equality of treatment between nationals and migrants with respect to social security. They also include the rules of cooperation between the two Contracting Parties. The latter coordinates the accumulation of periods of contribution that migrants accrue in the two countries, and regulate the transfer and payment of acquired social security entitlements. Most agreements refer to long-term benefits like old-age, disability, and survivors' pensions, as well as other annuities, but they can cover any of the social security branches.

²⁹ World Social Protection Report 2014/15, Glossary

³⁰ Ibid.

³¹ Taha, Mesakoub, and Siegmaun, 5

³² ILO Fact Sheet on Social Security.

³³ Avato et al. 2010, 456

The major principles of bilateral social agreements and those that will be the focus of the analysis below are:

- Application of the country of employment's legislation on social security
- Equality of treatment and non-discrimination between nationals and migrants
- Ensuring the maintenance of acquired rights and rights in the course of acquisition
- Payments of benefits abroad

2. Overview of Agreements

From among the three countries, Morocco has the highest number of social security agreements, followed by Tunisia, then Egypt. Overall, Morocco has signed 18 social security agreements, 16 have been ratified, but 15 are actually being implemented. Tunisia has 17 social security agreements signed but only 14 ratified, while Egypt has six agreements ratified but only 4 are being implemented. The three countries have bilateral social security agreements among themselves, even if they do not all share bilateral labour agreements. Below is a table with information regarding dates of signatures and ratification of these agreements.

Despite the fact that the Egypt-Tunisia and Egypt-Morocco agreements are the two agreements between North African countries that have been ratified, their implementation has been very weak.

Table 2: Social Security Agreements between Egypt, Tunisia, and Morocco

Agreement	Date of Signature	Date of Ratification
Egypt-Tunisia	23/03/2000	26/08/2001
Egypt-Morocco	12/05/2006	17/05/2013
Tunisia-Morocco	02/05/1987	05/01/1999

Egypt has six bilateral social security agreements with Cyprus, Greece, the Netherlands, Sudan, Morocco, and Tunisia. All six will be referred to in the analysis below. In the case of Morocco, major partners on social security include: France, Belgium, Netherlands, Germany, and Algeria. Tunisia's significant partners include France, Italy, and Germany, the three major host countries of Tunisian migrant workers respectively.

3. Analysis of Agreements

Egypt's 1978 agreement with Sudan provides for the portability of social security benefits, i.e., it allows for their transfer to the worker's country of origin. These benefits include old age pensions and all monetary benefits in cases of natural illness, occupational injury, childbirth, and burial. The agreement with Sudan also provides for the accumulation of periods of contribution. In case nationals of one of the two countries terminate their employment in the other country without being entitled to a pension, that part of their contributions corresponding to the old age branch is transferred to their

country of origin. The old pension law of the country of origin then applies to these workers. The law does not apply to government employees of one of the two parties working temporarily in the other country. Despite its advanced character, the law seems of limited value given the very few Egyptian migrant workers employed in the Sudanese private sector.

The agreements with Cyprus, Greece, and the Netherlands were entered into by Egypt in 1988, 1985, and 2003. All three agreements provide for the right of workers to request the transfer of the contributions they have paid in the country of employment to their country of origin. Therefore, Egyptian migrant workers have the right to request the transfer of their contributions to Egypt. These contributions are then taken into account in calculating the benefits due to workers.

The agreement between Cyprus and Egypt covers branches of old age, disability and death. This agreement envisages the transfer of benefits to the other contracting party or to a third country with which there is a social security agreement. It provides for the application of the social security law of the country of origin to workers sent by employers of that country to work in the other contracting party. This, however, results in differences in treatment between migrants from one country to another employed in the same labour market.

The agreement between Tunisia and Belgium guarantees equality of treatment, providing that the migrant worker will have the same rights and obligations in the country where he works as an employed national of this country. The agreement also stipulates that periods of activity in both countries will be taken into account for the calculation of entitlement to social security benefits. The agreement also provides that under certain conditions, migrant workers can receive social security benefits from their country of origin when they live in the other contracting party.

Egypt's agreement with Greece covers branches of old age and disability, in addition to grants in case of death and for burial expenses. The agreement does not provide for the transfer of benefits. In contrast, it allows the exemption for 24 months of workers employed in the other contracting party from the social security law of that country. Again, this amounts to disparate terms and conditions of employment for workers active in the same labour market.

For Egyptian migrant workers in the Netherlands, the agreement with that country covers benefits of illness, disability, unemployment, old age, and childhood. However, Egyptian workers who leave the Netherlands after having worked there are not entitled to the transfer of benefits and to social assistance given in accordance with the Dutch law. This agreement also provides for the application of the social security law of the country of the employer to workers from his/her country employed in the other contracting party. Like in the agreement between Greece and Egypt, this means different terms and conditions of employment for workers employed in the same labour market.

Even though Morocco and the Netherlands have signed and ratified an agreement on social security, the Dutch parliament passed a resolution to cancel the agreement in 2014. In practice, this means that Moroccans working in the Netherlands should remain there if they want to continue receiving benefits. However, since then a revised agreement has been in force since 1 January 2016 and the resolution to cancel the agreement was withdrawn.

Regarding the agreement between Egypt and Morocco, the 22 articles cover illness, maternity, invalidity, old age and death, work injuries and occupational diseases, yet do not cover family allowances, unemployment, and social benefits. Morocco and Tunisia's agreement covers illness, maternity, invalidity, old age, death, work accidents and occupational diseases, family benefits, but does not cover unemployment and social assistance. The accumulation of periods of contribution is covered by the agreement in Article 7. On the other hand, the agreement of Tunisia and Egypt includes the accumulation of periods of contribution and the portability of benefits. The agreement also covers illness, maternity, death, work injuries, and occupational diseases.

Tunisia's agreements with France, Italy, and Germany are more inclusive. They include the following benefits: family allowance, healthcare, sickness benefits (including maternity and paternity), invalidity benefits, accidents at work, occupational diseases, retirement pensions, and survivors' pension. In conclusion, findings can be summarized as follows :

General Observations

The general rule, in accordance with paragraph 1 (a) of Article 5 of the Maintenance of Social Security Rights Convention (1982) is that agreements should provide that to determine the contributions and benefits of migrant workers, the applicable law should be that of the country of employment. This principle defines the territorial scope of the applicable law. It prevents that workers contribute to two social security systems and ensures that they receive full benefits corresponding to their accumulated contributions.

The agreements also provide for the basic principle of equality of treatment between nationals and non-nationals with respect to social security. This means that migrant workers are subject to the same obligations and receive the same benefits as nationals of their host countries. In addition to its protection dimension, the principle of equality of treatment avoids any discrimination based on nationality. It also removes obstacles and difficulties that may be posed due to residence status.

The transfer of benefits and the accumulation of periods of contribution are the most important components of social security agreements. This is of great significance for migrant workers because it helps overcome the principle of territoriality of social security schemes and consequently improves the quality of protection. All agreements of the three countries include these provisions.

4. Major Limitations

A. Limitations on Geographic Coverage

The primary observation on the social security agreements of Morocco, Tunisia, and Egypt is with regards to the selection of partner countries for bilateral agreements. Even though they have signed social security agreements with major countries of destination of their migrant workers, there remains a deficit in the number of agreements. For example, Italy is an important destination country for Egyptian workers and a major destination for Moroccan workers. However, Italy and Egypt do not have a bilateral social security agreement, and the Morocco-Italy agreement has not been ratified by Italy. Other countries that are of importance to Morocco include: the United Kingdom (which hosts 26,000

Moroccan migrants), Switzerland (approximately 10,000 migrants), and the United States (around 35,000 migrants) who remain unwilling to engage in negotiations on social security of migrant workers. None of the three countries have social security agreements with the Gulf States.

There is an Arab Convention on the Rights of Arab Workers, specifically addressing social security, that applies to those who are employed in any of the League of Arab States' member states. The agreement was adopted in Benghazi on the 27th of March 1981. However, Iraq and Palestine are the only two countries that have ratified it.

B. Limitations on Beneficiaries and Benefits

The bilateral social security agreements do not cover all categories of workers and all benefits. For example, self-employed workers who are an important category of Moroccan migrant workers are not considered in many of the agreements. Another major weakness is the fact that these agreements exclude seasonal workers. Regarding benefits, portability of non-contributory benefits is not consistently covered by these agreements.

C. Information Deficits

A significant limitation regarding the application of these agreements is the fact that they are not accessible to migrants. In some cases, the migrants have no knowledge of the content of these agreements. Another limitation is the fact that many of these agreements need updating. It is true that some, such as the agreement between Egypt and Sudan, have been updated, but others have not. Therefore, it may be said that some agreements are based on outdated and obsolete realities. For example, in the case of Belgium and Morocco, the agreement signed in 1968 does not provide for medical coverage for retirees and their families after returning to Morocco. The new agreement signed in 2014 with Belgium makes up for this shortcoming, providing for the transfer of family allowance of pensioners to Morocco. However, not having been ratified yet, this agreement has not yet revoked and replaced the 1968 one.



Conclusions:

Towards Strengthening the
Agreements on Labour Migration in
the Region

Conclusions: Towards Strengthening the Agreements on Labour Migration in the Region

An analysis of bilateral labour agreements and MOUs of Egypt, Morocco, and Tunisia provides an understanding of the benefits and limitations of different forms of agreements that contribute to labour migration governance. In the wide range of analyzed agreements, there are various commonalities and gaps. The main objective of the bilateral agreements and MOUs is to improve migration governance by formalizing the commitment of the Contracting Parties to ensure that migration takes place in accordance with agreed principles and procedures. However, the degree of details and arrangements differ. Equality of treatment, division of responsibilities, and the creation of joint committees to implement, monitor, and evaluate the agreements is common in most of the agreements. However, there are various gaps.

Gender concerns are almost absent from the labour agreements analyzed. There also is no clear attention given to the specific problems of low-skilled migrants. There is no evidence to support that labour and social security agreements are widely disseminated and publicized which is a major limitation to the implementation process.

The lack of participation of social partners is also evident, which may have negative consequences for the formulation and the implementation of the agreements. Providing for tripartism and tripartite consultations is significant at every stage of the process: negotiations, drafting, implementation, and evaluation. Similarly, the involvement of social partners in regular monitoring and periodic evaluation should ultimately strengthen the agreements and help in adapting them to changing circumstances.

Another significant observation is the lack of social security provisions and healthcare benefits in the labour agreements analysed. In some cases, this is due to the fact that the Contracting Parties have separate bilateral social security agreements, but in others, this is not the case. The inclusion of such provisions would contribute to securing the rights of migrant workers. It is equally significant for agreements to take steps in improving the recruitment process, particularly in reducing the cost of migration and preventing unfair recruitment practices. Similarly, agreements could be strengthened if model employment contracts were annexed. These contracts should ensure decent terms and conditions of employment for the migrant workers.

In the case of social security agreements, it is evident that they are more detailed than the bilateral labor agreements and MOUs, particularly in dividing the responsibilities between the parties. The most common branches of social security covered by the agreements analysed above are illness, maternity, death, work injuries, and occupational diseases. The inclusion of provisions regarding the accumulation of periods of contribution and portability of benefits, which are arguably the most significant factors of social security agreements, is not uniform.

The following section provides an explanation on how Egypt, Morocco, and Tunisia can work towards strengthening their agreements in order to: a) improve labour migration governance; b) promote and protect the rights of migrant workers including in terms of social protection coverage; and c) promote migration and development linkages.

1. Measures to Improve Governance of Labour Migration

Formalizing the concept of shared responsibility between both origin and destination countries is necessary to improve labour migration governance. Even though a number of labour and social security agreements analysed in this report provide for the detailed responsibilities of each party, they are mostly those of government institutions and migrants themselves. In accordance with the principle of tripartism, both labour and social security agreements should also incorporate the role of social partners, i.e. employers' and workers' organizations. Migrants' associations and recruitment agencies should also be involved as important stakeholders.

Public awareness of both labour and social security agreements is a major weakness in the three countries. To raise awareness, each State must ensure effective dissemination of agreements to all concerned. Versions in languages of the contracting parties, including in Arabic and Berber, must be made available and accessible to government institutions, employers' and workers' organizations and to migrant workers and their associations in both countries of origin and destination. The States must also undertake significant measures to ensure that stakeholders comprehend the content of the agreements. All agreements, MOUs, protocols and other legal instruments must be combined and made available on an online database for easier access. This should enable migrant workers to easily access the agreements and their content in their countries of employment.

A major cause of poor governance and protection gaps is the high cost of migration resulting from recruitment malpractices, and bureaucratic regulations. BAs/MOUs should include provisions to address these issues. Most labour agreements of the North Africa sub-region do not mention the need to reduce migration costs or to prevent recruitment malpractices.

As demonstrated in the analysis above, none of the labour agreements promote social dialogue, which is a necessary component for better governance. There needs to be provisions for consultations with social partners and civil society organizations. Their participation in both labour and social security agreements can contribute to better implementation, monitoring, and follow up of agreements.

Lastly, states must make reference to international legal instruments in their agreements. They should also change laws, policies, and practices to ensure that they are in conformity with international norms. Ratifying international labour conventions related to migrant workers should greatly contribute to improving the governance of labour migration in the North Africa sub-region.

2. Measures to Promote and Protect the Rights of Migrant Workers

There are four significant measures to promote and protect the rights of migrant workers. The first measure is incorporating provisions that ensure protection of migrants' rights into bilateral agreements as well as national laws. As shown in the case of Egypt's BLA agreement with Italy, there was specific reference to international instruments and fundamental rights. Such reference should become consistent practice. Labour agreements should also include specific provisions on contracts, wages, and work place protection. Thirdly, to ensure effective results, labour agreements must include concrete measures to implement and enforce the provisions of the BLAs. As demonstrated in the study, a significant number of the agreements call for the creation of committees to implement the provisions. However, this is not enough. Labour agreements should detail the frequency of meetings that need to take place and the tools that the committees can use to ensure effective implementation of the agreements. Labour and social security agreements must take into consideration gender concerns as well as those of vulnerable migrants. Lastly, social security agreements should strive to cover all branches of social security, and ensure the portability and accumulation of contributions.

3. Measures to Promote Migration and Development Linkages

The most significant measure for promoting migration and development linkages is incorporating development as an explicit objective in all agreements. Secondly, states must push for provisions that facilitate the transfer of remittances. One option could be reducing the cost of remittances by encouraging competition. Remittances remain the most tangible benefit of labour migration to countries of origin. Other measures can include but not be limited to education and vocational training that enable labour forces of countries of origin to meet demand for labour in their labour markets and in those of countries of destination. They may also encompass joint projects in countries of origin where migrant workers can be reintegrated after their return, and recruitment practices that do not result in high rates of migration of the highly-skilled and brain drain. Lastly, countries should strengthen their cooperation in the process of generation and exchange of statistics of migration.



Works Cited

This paper has been written based on country reports produced by three researchers:

- Lina Lotayef for Egypt
- Mohamed Khachani for Morocco
- Lassaad Labidi for Tunisia

In addition, further research was conducted by the Center for Migration and Refugee Studies.

"Egypt Migration Profile." Migration Policy Centre. European Union, n.d. Web. <http://www.migrationpolicycentre.eu/docs/migration_profiles/Egypt.pdf>.

Haas, Hein De. "Morocco: Setting the Stage for Becoming a Migration Transition Country?" Migration Policy Institute. N.p., 19 Mar. 2014. Web. <<http://www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country>>.

Lindstrom, Channe. 2002. Report on the Situation of Refugees in Morocco: Findings of an exploratory study. Cairo: FMRS/American University of Cairo.

López García, Bernabé. 1999. Immigration Marocaine et Commerce Ethnique en Espagne, M. Berriane and H. Popp, eds., *Migrations Internationales entre le Maghreb et l'Europe*.

Mandres, Marinel. "Out of the Labour Market: Intra-EU Return and Retirement Migration." *Territoriality and Migration in the E.U. Neighbourhood* (2013): 163-91. Web.

München, Rabat: Technische Universität München, Université Mohammed V, 51-58.

"Morocco Migration Profile." Migration Policy Centre. European Union, June 2013. Web. <http://www.migrationpolicycentre.eu/docs/migration_profiles/Morocco.pdf>.

Natter, Kathrine. "Revolution and Political Transition in Tunisia: A Migration Game Changer?" Migration Policy Institute. N.p., 22 May 2015. Web. <<http://www.migrationpolicy.org/article/revolution-and-political-transition-tunisia-migration-game-changer>>.

Natter, Katharina. 2013. "The Formation of Morocco's Policy Towards Irregular Migration (2000– 2007): Political Rationale and Policy Processes." Oxford: IML, DOI: 10.1111/imig.12114.

"Tunisia Migration Profile." Migration Policy Centre. European Union, June 2013. Web. <http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf>.

Sadiqi, Fatima. 2004. *Migration-Related Institutions and Policies in Morocco*. Florence: European University Institute, RSCAS.

Wickramasekara, Piyasiri. "Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review." (n.d.): n. pag. International Labour Organization, 2015. Web.

Wunderlich D. 2010. Differentiation and Policy Convergence against Long Odds: Lessons from Implementing EU Migration Policy in Morocco. *Mediterranean Politics* 15 (2): 249-72.



Annexes



Annex 1

Egypt's Social Security Agreement

Country	Date of Signature	Date of Ratification	Date of Revision
Sudan	21/9/1975	5/1/1976	16/4/1978
Greece	17/1/1985	29/6/1985	In Progress
Cyprus	12/7/1988	31/1/1989	-----
The Netherlands	27/7/2003	8/10/2003	-----
Morocco	12/5/2006	17/4/2014	-----
Tunisia	22/3/2000	26/8/2001	-----

Annex 2

Morocco's Social Security Agreements

Country	Classification of Text	Signature Date	Date of entry into force
France	Old convention	09/07/1965	04/18/1967
	New agreement	22/10/2007	01/06/2011
Belgium	Old convention	06/24/1968	01/08/1971
	New agreement	02/18/2014	-----
Netherlands	Convention	02/14/1972	01/01/1973
	Arrangement	30/11/1972	-----
	Rider	30/09/1996	-----
	Rider	22/06/2000	22/08/2000
	Rider	24/06/2002	24/07/2002
Spain	Convention	08/11/1979	01/10/1982
	Additional Protocol	08/02/1984	01/10/1982
Sweden	Convention	04/01/1980	06/01/1982
Germany	Convention	25/03/1981	01/08/1996
	Agreement	25/03/1981	01/08/1996
Denmark	Convention	26/04/1982	01/04/1988
	Rider	02/15/1988	01/04/1988
Romania	Convention	07/27/1983	
Libya	Convention	08/04/1983	12/01/1989
	Rider	16/03/1988	12/01/1989
Tunisia	Convention	05/02/1987	01/05/1999
Algeria	Convention	02/23/1991	01/07 /2013
UMA	Convention	03/10/1991	Being ratified by the Moroccan party
Italy	Convention	18/02/1994	Being ratified by the Moroccan party
Canada	Convention	01/07/1998	01/03/2010
Portugal	Convention	14/11/1998	03/06/2010
Quebec	Agreement	25/05/2000	01/12/2010
Egypt	Convention	12/05/20 06	05/17/2013
Luxembourg	Convention	02/10/2006	01/11/2012

Annex 3

Tunisia's Social Security Agreements

	Country	Signature Date	Date of entry into force
European Countries	France	17/12/1965	09/01/1966
	Belgium	01/29/1975	01/11/1976
	The Netherlands	09/22/1978	01/04/1980
	Luxembourg	04/23/1980	01/10/1980
	Germany	16/04/1986	01/08/1986
	Italy	07/12/1984	01/06/1987
	Austria	04/12/1984	01/03/1990
	Spain	26/02/2001	01/01/2002
	Portugal	09/11/2006	24/04/2009
	Turkey	05/28/2013	-----
	Bulgaria	01/10/2015	-----
	Czech Republic	19/11/2015	-----
Arab Countries	Algeria	30/12/1973	01/02/1982
	Morocco	25/02/1987	01/06/1999
	Egypt	23/03/2000	01/11/2001
	Libya	06/06/1972	02/01/1975
	Mauritania	21/04/1999: Students care coverage	21/04/1999

Annex 4

Breakdown of Tunisia's Revised Social Security Agreements

	Country	Signature Date	Date of entry into force	Revision Date	Date of entry into force
European Countries	France	17/12/1965	09/01/1966	26/06/2003	01/04/2007
	Belgium	01/29/1975	01/11/1976	28/03/2013	-----
	The Netherlands	09/22/1978	01/04/1980	19/11/2002	01/11/2004
	Luxembourg	04/23/1980	01/10/1980	30/11/2010	18/02/2013
	Austria	04/12/1984	01/03/1990	23/06/1999	01/11/2000
Arab Countries	Algeria	30/12/1973	01/02/1982	29/09/2004	10/04/2006
	Morocco	25/02/1987	01/06/1999	19/10/2015	-----
	Libya	06/06/1972	02/01/1975	05/04/1988	05/04/1988



