

► Thematic Brief

Africa – Arab States Interregional Tripartite Meeting on Labour Migration

November 2021

Bilateral labour migration instruments – Africa and Arab States¹

Introduction

Migration for employment has been a long-standing strategy for African countries faced with major development, poverty and employment challenges. African migrant workers generally have three major options in regard to mobility and migration: migrating within Africa; migrating to Europe and the Americas; and migrating to the Middle East. While most African workers migrate to destinations within the African continent itself, migration to the Arab States² has increased in recent years. The objective of this brief is to highlight the role of bilateral labour migration instruments (BLMIs)³ in Africa–Arab States cooperation, focusing on challenges and emerging practices, especially in the light of COVID-19.

ILO instruments have long recognized the potential of multilateral and bilateral agreements as a good practice in the governance of labour migration flows and in contributing to the protection of migrant workers⁴ (ILO 2015).

¹ This thematic brief was developed by Piyasiri Wickramasekara of Global Migration Policy Associates (GMPA) to further discussions during the Africa – Arab States Interregional Tripartite Meeting on Labour Migration. It does not reflect the views of the ILO or the African Union Commission and any errors rest with the authors.

² Arab States as defined in this brief consist of the Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates), Jordan and Lebanon. However, Lebanon has not signed any BLMI with any African country up to now.

³ This brief uses the term “bilateral labour migration instruments” (BLMIs) to refer to legally binding bilateral labour agreements (BLAs), non-binding memoranda of understanding (MOUs) and other forms of bilateral labour arrangements.

⁴ The term “migrant worker” is used throughout this thematic brief in accordance with international standards, in particular, Article 2 of the International Convention on the Protection of all Migrant Workers and Members of their Families (1990), which defines a “migrant worker” as a “person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. Definitions of the term migrant worker are also found in the ILO Migration for Employment Convention (Revised), 1949 (No. 97), which defines a migrant worker as “a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.” (Art. 11). Self-employed persons are not covered under this

The African Union (AU) provides an institutional framework for advancing the achievement of protection and promotion of the rights of migrant workers across the continent. The AU legal instruments and policy frameworks provide the normative and legal mechanism, through which Member States can foster greater political and economic integration, while simultaneously enhancing the protection of migrant workers.

At its Twenty-Fourth Ordinary Session, held from 30 - 31 January 2015, in Addis Ababa, Ethiopia, the African Union Assembly by decision, Assembly/AU/Decl.6(XXIV) reaffirmed its determination “to step up our regional cooperation for smooth labour migration in the continent, including through effective implementation of our treaties, charters, protocols and other relevant policy instruments in view of free movement of people and workers while combatting its negative impact on human trafficking”.

Additionally, the AU Assembly committed to implement the commitments in the Declaration on Employment, Poverty Eradication, Inclusive Development in Africa, its Plan of Action and Follow-Up Mechanisms, as well as to adopt for its implementation, the Joint Labour Migration Governance for Development and Integration Programme (JLMP).

The JLMP has been designed in response to identified challenges in many African countries, such as labour and skills shortages in some sectors and unemployment and a growing youth bulge in others. Moreover, 46.1 percent of migrants in Africa are women who often end up working in traditionally unremunerated roles at destination within the global economy. Female migrant workers are thus a vulnerable group of migrants who are susceptible to working in the informal economy, which renders them even more vulnerable. In 2021, the JLMP through the consultative processes developed the Draft Guidelines on the Development of Bilateral Labour Agreements. JLMP is one of the AU’s commitments to improve labour migration governance in Africa.

There has been proliferation of BLMIs in all regions, including Africa, since the 1990s (ILO 2015). The African Union’s strong support for bilateral labour agreements (BLAs) was made clear in its submission to the 2020 Global Forum on Migration and Development regional dialogue: “Well implemented BLAs represent one of the most important instruments in the protection of migrant workers” (African Union 2020b, 5).

A recently created database on African BLMIs revealed 102 known agreements since 1960, with BLMIs adopted in all major migration corridors – both intra-African and interregional (table 1).

definition. It is important to note that governments in the Arab States view most labour migration as temporary and tend to prefer to use the terms “temporary foreign contract workers” or “temporary expatriate workers”.

► **Table 1. Numbers of known African BLMIs by corridor**

Corridor	No. of BLMIs	Per cent
Intra-African	31	30.4%
Africa–Europe	34	33.3%
Africa–GCC States	23	23.7%
Africa–Jordan	11	10.8%
Africa–Asia	2	2.0%
Total	102	100.0%

GCC = Gulf Cooperation Council.

Africa–Arab States bilateral cooperation on migration has had a long history dating back to the 1970s. It is the only corridor that has continued to provide migration opportunities for low-skilled migrant workers of all categories for several decades. Jordan and Qatar in the Middle East and Sudan in Africa have been pioneers in forging agreements with African/Middle East countries since the 1970s.⁵

Analysis of the nature of these instruments shows that the bulk (69 per cent) are bilateral labour agreements (BLAs), which are meant to be legally binding instruments, and this is followed by non-binding memoranda of understanding (MOUs) (28 per cent). Bilateral framework agreements with European Union countries represent multiple objectives, linking issues of regular migration and mobility pathways, readmission, control of irregular migration, and development.

The COVID-19 pandemic has brought to the forefront the many gaps and shortcomings of existing BLMIs, as well as the need for greater collaboration between African origin countries and Middle Eastern destination countries to address several issues that have emerged (African Union 2020c).

⁵ Despite the presence of large numbers of domestic workers from Africa, Lebanon has no operational BLMI with any countries of the origin in Africa.

► **Table 2. Numbers of known African BLMIs by type of instrument**

Type of BLMI	No. of BLMIs	Per Cent
Agreement	52	51.0
Framework agreement	13	12.7
Cooperation agreement	4	3.9
Total - Legally binding agreements	69	67.7
Memorandum of Understanding (MOU)	29	28.4
Other	4	3.9
Total - All agreements	102	100.0

Source: Africa BLMI database.

Overview of existing instruments and guidance

International Conventions and Recommendations

An array of international instruments – including ILO Conventions concerning fundamental principles and rights at work, United Nations (UN) human rights treaties, and three international Conventions on migrant workers – establish the human and labour rights of migrant workers and members of their families that provide a solid foundation for formulating policies for migration for employment and related bilateral instruments. The eight ILO fundamental Conventions and the core UN human rights instruments have been widely ratified by African Union Member States and some of the Middle East countries.

These Conventions and related ILO Recommendations provide guidance to the formulation of major provisions in bilateral agreements, such as exchange of information, fair recruitment, employment contracts, equality of treatment and non-discrimination, supervision of working and living conditions, employment and treatment of women workers, social protection, and dispute resolution and access to remedies.

As regards the three migrant worker-specific Conventions, 32 African Union Member States have ratified at least one or more of them, as indicated in table 3 below. All other

international labour standards also apply (with a few specific exceptions) to all workers in the workplace, including migrant workers.⁶

► **Table 3. Ratification of migrant worker and related Conventions in Africa**

No.	Convention	No. of ratifications
1	International Convention on the Protection of the Rights of Migrant Workers and Their Families, 1990	25
2	ILO Migration for Employment Convention (Revised), 1949 (No. 97)	12
3	ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	10
4	ILO Private Employment Agencies Convention, 1997 (No. 181)	9
5	ILO Domestic Workers Convention, 2011 (No. 189)	5
6	Countries ratifying at least one of the above (Nos 1–5)	35
7	Countries ratifying at least one of the three migrant worker Conventions (Nos 1–3)	32

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has emphasized the important role that bilateral agreements and other arrangements can play in ensuring that migrant workers are able to benefit from the protections contained in ILO Conventions and Recommendations (ILO 2016). In addition to the ILO migrant workers Conventions and their accompanying Recommendations, a range of other ILO standards include provisions that specifically refer to migrant workers and encourage the conclusion of bilateral agreements as an important means to implement the instruments concerned. For example, the Private Employment Agencies Convention, 1997 (No. 181), and the Domestic Workers Convention, 2011 (No. 189), and their accompanying Recommendations (Nos 188 and 201, respectively), recommend the signing of bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices on the part of recruitment agencies. ILO social security instruments also recommend the conclusion of bilateral agreements. Annex I to the Migration for

⁶ The ILO webpage [“International Labour Standards on Labour Migration”](#) provides an extensive list of ILO Conventions that are particularly relevant for BLAs.

Employment Recommendation (Revised), 1949 (No. 86), presents a unique Model Bilateral Labour Migration Agreement.⁷

ILO non-binding frameworks

ILO non-binding international frameworks also provide important guidance for the conclusion of bilateral agreements. These include the ILO Multilateral Framework on Labour Migration (ILO 2006) and the General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs (ILO 2019a). The latter states that governments should ensure that bilateral and/or multilateral agreements on labour migration include mechanisms for oversight of recruitment of migrant workers that are consistent with internationally recognized human rights, including fundamental principles and rights at work, and other relevant international labour standards.

African instruments

The international instruments listed above are supported by a host of African instruments, as well as by sectoral instruments on labour migration and related areas (such as social protection) adopted at the continental and regional economic community (REC) levels. The core instrument is the African Union Charter on Human and Peoples' Rights (1981), ratified by all 55 Member States. Other key instruments are the Free Movement Protocol and the African Union Migration Policy Framework for Africa and Plan of Action (2018–2030). The Migration Policy Framework for Africa recommends: "Align national laws, policies and regulations; bilateral and multilateral agreements; and voluntary codes of conduct with the ILO General Principles and Operational Guidelines for Fair Recruitment" (African Union 2018, 35).

Other international frameworks

The United Nations 2030 Agenda for Sustainable Development (2015) and the Global Compact for Safe, Orderly and Regular Migration (GCM), 2018, are important in this context. The endorsement of the GCM in December 2018 by a large majority of African countries⁸ and Middle East countries is an encouraging development. The GCM has made a recommendation calling for "human rights-based and gender-responsive bilateral, regional and multilateral labour mobility agreements with sector-specific

⁷ Other relevant instruments include the:

- Equality of Treatment (Social Security) Convention, 1962 (No. 118);
- Maintenance of Social Security Rights Convention, 1982 (No. 157);
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168);
- Work in Fishing Convention, 2007 (No. 188);
- Nursing Personnel Recommendation, 1977 (No. 157);
- Maintenance of Social Security Rights Recommendation, 1983 (No. 167);
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169);
- Employment Relationship Recommendation, 2006 (No. 198); and
- Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

⁸ In the Middle East and North Africa (MENA) region, Algeria and Libya abstained in the UN General Assembly vote on the GCM in December 2018.

standard terms of employment in cooperation with relevant stakeholders, drawing on relevant International Labour Organization (ILO) standards, guidelines and principles, in compliance with international human rights and labour law” (UN General Assembly 2018, para. 21(a)).

Current challenges

There are several challenges in achieving fair migration and decent work outcomes, even when BLMIs have been signed between African and Arab States. While employment mobility and the *kafala*/sponsorship and recruitment malpractices pose serious challenges to the effective functioning of BLMIs, they are not discussed here, as separate thematic briefs (on internal labour market mobility and fair recruitment) deal with them.

Promotion of comprehensive, standards-based regional and national labour migration laws and policies

A number of RECs and African Union Member States have made efforts to promote labour migration laws and policies guided by international and regional standards to address governance and protection issues. It is important for other RECs and African Union Member States to also strengthen and promote similar laws and policies. This would serve to strengthen the existing framework on protection of rights and decent work for nationals under BLMIs, and to ensure that migration for employment abroad is mutually supportive of national priorities on development, employment and decent work. The non-ratification of relevant international instruments also constrains the development of appropriate policies. For instance, although many agreements between African and Gulf Cooperation Council (GCC) countries and Jordan concern domestic workers, neither major African origin countries nor any Middle East country have ratified Convention No. 189. At the same time, no Middle East country covered here has ratified any of the three migrant-specific Conventions in table 3 above. This makes it difficult to promote a robust framework for effective governance of BLMIs.

This is made clear in the case of women migrant domestic workers who are not covered by labour laws in Arab States where special laws apply to them (GAATW and IFDW 2019). Confined to private households, they do not normally benefit from labour inspection services. Moreover, domestic workers have been disproportionately affected by the pandemic (D’Cunha 2021). Their wages are mostly based on nationality and are unrelated to any specific skills they possess. While there are dedicated domestic worker agreements and MOUs between some African countries of origin and Arab States, there is little evidence of effective enforcement of these instruments.

Poor implementation and follow up

The poor implementation and follow up of BLMIs have been well documented (ILO and Wickramasekara 2015; ILO and IGAD 2021; ATUMNET, 2017; Bisong 2021). As the African Union (2020b, 5) noted: “Challenges of violation of human rights and labour rights have been noted with countries of origin resorting to putting bans on sending migrant

workers to the countries of destination even though there were existence of bilateral labour agreements between the sending and the receiving countries.” Once agreements are signed, the political will to effectively implement them seems to be lacking. Given the superior bargaining power of destination countries, origin countries may find it difficult to press for effective enforcement. Origin countries may also lack the necessary political will, given the dilemma they face between promotion of overseas employment and remittances on the one hand, and protection of their nationals abroad on the other hand.

The lack of reference to labour inspection in many BLMIs is a particular concern, given its pivotal role in monitoring and enforcing both labour standards and the relevant protections stipulated in the instruments. Furthermore, migrant workers employed in private households, many of whom are women, are usually not covered by labour inspection services, even where standard employment contracts apply. Many agreements lack separate implementation guidelines. Jordan has, however, systematically adopted implementation programmes to follow up on signed BLMIs. The common practice of automatic renewals after four or five years may also lead to complacency and poor follow up.

Lack of involvement of social partners and other important stakeholders in the BLMI process

ILO instruments have generally recommended the inclusion of social partners in formal processes of elaborating and implementing labour migration policy, and particularly in developing, implementing and monitoring BLMIs (ILO 2016, para. 189). However, the general experience is that social partners are not effectively consulted in the development or implementation of such instruments, and copies of agreements or drafts are not even shared with them (ILO and IGAD 2021). Similarly, other stakeholders such as private employment agencies, migrant worker associations and civil society organizations are also often left out of the BLMI process. Since BLMIs impose obligations and rights on employers, workers and recruitment agencies, excluding them from the BLMI process undermines the legitimacy of such instruments and leads to their poor implementation. In this regard, it should also be underscored that the GCM proposes a “whole-of-society” approach in labour migration governance.

Challenges posed by irregular migration flows

One of the objectives of signing bilateral agreements with Arab States is to minimize irregular migration through providing legal pathways. The African Union (2020c, 2) noted: “With limited access to regular migration pathways migrants resort to irregular, precarious, informal routes and are thus at high risk of exposure to various forms of trafficking and exploitation.” This is especially relevant to the Intergovernmental Authority on Development (IGAD) region, where youth often try to migrate irregularly through complex migration routes via Yemen to GCC countries, particularly Saudi Arabia. This results in discrimination and severe exploitation of such migrants followed by collective deportations. The tendency on the part of some destination countries to conclude BLMIs only for certain groups of workers – especially domestic workers – with

a view to giving them special protection, may leave other migrant workers with no option except using irregular migration channels. The challenge for origin countries is to create rewarding decent work opportunities for youth at home, which they find difficult given lack of resources.

Challenges related to the COVID-19 pandemic

The COVID-19 pandemic has been a major test of the cooperation between origin and destination countries in the Africa–Arab States corridor as well as the Abu Dhabi Dialogue corridor between Asia and Arab States (African Union 2020c; Alexandrova 2021). The pandemic has brought to the forefront the many gaps and shortcomings of existing BLMIs. The African Union Policy Brief on COVID-19 states:

[O]pportunities to review current policies and agreements on migrant access to social protection and equal treatment exist, as many policies created and implemented during the pandemic exclude migrants, leaving them vulnerable. Bilateral and multilateral agreements must be revisited, and policies implemented to mitigate the COVID-19-induced challenges that labour migrants face (African Union 2020c, 2).

This was to be expected because most bilateral labour instruments have not provided for crisis-related or pandemic situations. The pandemic has highlighted the obvious challenges in ensuring decent work for migrant workers: fair recruitment, the need for enhanced protection in the face of loss of jobs and non-payment of wages and end-of-service benefits; avoidance of discriminatory practices; improvement of living conditions; strengthening existing fragile social protection provisions; and dignified return and reintegration. At the same time, several GCC countries have used the pandemic to accelerate their efforts to expand workforce nationalisation programmes and reduce the employment of both skilled and low skilled migrant workers (Alsahi, 2020).

Limited consular presence by African origin countries in major Arab States destinations

GCM Objective 14 reads: “Enhance consular protection, assistance and cooperation throughout the migration cycle.” However, only a few African countries have consular services and labour attachés in migrant employment countries due to resource constraints (ILO and IGAD 2021; Bisong 2021). It proved to be a major handicap during the pandemic.

Recent developments, practices and strategies

Guidelines and guidance frameworks on BLMIs

The first pioneering guidelines on the design of a BLMI were provided by the Model Agreement on Temporary and Permanent Migration for Employment, Including Migration of Refugees and Displaced Persons annexed to ILO Recommendation No. 86. The Model Agreement contains a template consisting of 29 articles with elaboration of appropriate content. This Model Agreement was widely used in the 1950s and 1960s by

European governments for developing BLAs, and still holds considerable relevance (Cholewinski 2015; ILO 2015).

It is an encouraging development that several guidance frameworks for promoting rights-based BLMIs are currently being developed at the international and regional levels. These include the:

- **Draft African Union Guidelines on Developing Bilateral Labour Agreements (BLAs):** These draft guidelines apply to all 55 African Union Member States and cover intra-Africa and interregional BLMIs. They have been developed based on tripartite and stakeholder consultations (African Union Commission, forthcoming).
- **IGAD Regional Guidelines on Rights Based Bilateral Labour Agreements,** which were adopted by all IGAD Member States at the Ministerial Conference on Labour, Employment and Labour Migration in IGAD Region on 21 October 2021 (IGAD 2021) ⁹ The primary focus of the Guidelines is on IGAD–Middle East labour migration.
- **UN Network on Migration (UNNM) Draft Guidance on Bilateral Labour Migration Agreements (BLMAs):** This draft guidance is being developed by UNNM Thematic Working Group 3, led by the ILO and International Organization for Migration (IOM). Its scope is mentioned as being global (UNNM, forthcoming).

While both the African Union and UNNM guidance frameworks are still in the finalization stage, several common features of the three frameworks above can be listed:

- They all reflect the application of rights-based frameworks to labour migration.
- Each of them proposes a model template for structuring BLMIs.
- They provide elaboration of content for each element in the template based on international instruments and good practices.
- They provide guidance on the complete BLMI process, covering design and development, negotiation, implementation and follow up, and monitoring and evaluation.
- All three take into account pandemic-related developments and propose crisis-related provisions to deal with such situations.
- They are meant to be used by both countries of origin and destination, as well as other stakeholders such as social partners, private employment agencies, and civil society organizations, including migrant organizations.

Tool kits and training materials for BLMIs

In addition to the above guidance frameworks, some manuals and tool kits for assessment and capacity-building of constituents in BLMIs have been recently developed

⁹ They apply to all the Member States of IGAD (Intergovernmental Authority on Development): Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. The Djibouti Declaration is available at: <https://igad.int/attachments/article/2866/Declaration%20Signed-English.pdf>.

- BLMI research guide for Bangladesh: The ILO provided detailed guidance materials to the Government of Bangladesh in 2017–18 in three areas: core elements, assessment criteria, and good provisions and practices of BLMIs based on a global review (Wickramasekara 2018a; 2018b; 2018c).
- Under an ILO–IOM Project, several tools have been produced for the African region.
 - a. “Developing and Implementing Bilateral Labour Migration Agreements in Africa”: An online training toolkit created by the ILO, IOM and the International Training Centre of the ILO (ITCILO 2020)
 - b. *Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-Tested in the African Region* (ILO and IOM 2019)

Bilateral agreements recognized in legislation

- Ethiopia has explicitly formalized the role of BLMIs in law through its Overseas Employment Proclamation No. 923/2016. The preamble to the Proclamation states that “it is believed that bilateral agreements with receiving countries may strengthen lawful overseas employment and could prevent human trafficking”. Article 12 of the Proclamation states: “Deployment of workers for overseas employment in accordance with this Proclamation shall be effected only if there is a bilateral agreement concluded between the Federal Democratic Republic of Ethiopia and the receiving country.”¹⁰
- Kenya’s Ministry of Labour and Social Protection has established an inter-ministerial Bilateral Labour Agreements Committee to address gaps in the development and implementation of BLMIs. Its members comprise the Ministry of Foreign Affairs, Ministry of Interior and Coordination of National Government, Office of the Attorney General, and Ministry of Labour. The Committee has a wide range of functions covering the entire BLMI process.

Organisation of Islamic Cooperation (OIC) initiatives

The importance of Africa-Arab States cooperation in bilateral migration instruments is further highlighted by the initiatives of the Organisation of Islamic Cooperation (OIC), which covers 23 African countries¹¹ and all GCC countries, Jordan and Lebanon, among others. It has adopted the OIC Labour Market Strategy; an OIC Standard Bilateral Agreement on Exchange of Manpower Recruitment of Workers, which covers the major areas of a generic BLMI; and an OIC Agreement on Mutual Recognition Arrangement (MRA) of Skilled Workforce (OIC 2018). These are aimed at enhancing intra-OIC cooperation on labour, employment and social protection and at facilitating the mobility of workforce within the OIC region.

¹⁰ The presence of sizeable numbers of Ethiopian migrant workers in countries with no signed BLMI (such as Lebanon) suggests that this provision is yet to be fully implemented.

¹¹ Algeria, Benin, Burkina Faso, Cameroon, Chad, Comoros, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Libya, Mali, Mauritania, Morocco, Niger, Senegal, Sierra Leone, Somalia, Sudan, Tunisia and Uganda.

GCM and its follow up

Although the GCM is a non-legally binding cooperative framework (GCM, para. 7), African countries can use it as a common reference point in their negotiations on BLMIs. The African Union’s “3 Year Implementation Plan of Action for the Global Compact on Safe, Orderly and Regular Migration” aims to develop regular pathway migration schemes to foster decent job opportunities in foreign job markets, through bilateral and multilateral labour agreements, MOUs and fair recruitment schemes (African Union 2019).

Improvement of the knowledge base on labour migration and BLMIs

The African Regional Organisation of the International Trade Union Confederation (ITUC-Africa) 2018 report *Africa Labour Migration to the GCC States: The Case of Ghana, Kenya, Nigeria and Uganda* is a pioneering and comprehensive study on Africa–GCC labour migration covering trends, drivers of migration, policy and legislative frameworks, migrant worker rights’ issues and key challenges (Atong, Mayah, and Odigie 2018). The African Union has also contributed to improving labour migration statistics in Africa through regular publication of reports on the subject (African Union 2020d). Recent research by the ILO and others on women migrant workers is improving the knowledge base on their labour market situation and the gender dimensions of migration from and within Africa (ILO 2020; GAATW 2019; Bisong 2021).¹² There is growing documentation on the impact of the pandemic on African migrant workers. At the same time, a preliminary database of all bilateral labour migration instruments for the Africa region has been compiled under the JLMP Project on African Union Guidelines on BLAs. The October 2021 update of the database consists of basic information on 102 BLMIs signed by African countries.

Concluding observations

Areas for cooperation between African and Arab States

1. Resumption of labour flows with the gradual return to normalcy, and a post-pandemic situation that affords opportunities for policy changes and addressing protection gaps: Outmigration from African countries has sharply fallen during the pandemic and the return of large numbers of workers from the Middle East has exacerbated local employment pressures and reintegration challenges. The return to a new normal or post-pandemic situation offers major scope for cooperation between Africa and Arab States to build back better by addressing the major protection gaps observed in migration policy and governance frameworks. These gaps have been widely documented, and relate to upholding migrant workers’ rights, ensuring fair recruitment, improving living and accommodation standards, and strengthening social protection, among others.

¹² As well as ongoing ILO research projects on “Migrant Domestic Workers in the Southern African Region” and the “Situation of Women Migrant Workers in the IGAD Region”.

2. Systematic review and revision of existing BLMIs¹³, launching new BLMIs and their effective implementation: It is clear that existing bilateral instruments were hardly active during the pandemic. Even before the crisis, some important legislative changes had been introduced by several Arab States covering domestic workers, nationalization policies and the sponsorship system. The existing instruments should be modified to reflect these developments. The two States parties need to cooperate urgently in the revision and updating of agreements to address issues related to the pandemic. Rapid assessment of the operation of BLMIs during the pandemic may help identify their gaps in addressing situations of crisis, including the pandemic.

At the same time, it is crucial that BLMIs be negotiated and adopted between countries with significant migration flows that are currently operating without BLMIs. This particularly applies to Lebanon, which hosts large numbers of African domestic workers with limited protection. The BLMI guidelines mentioned above can be drawn upon in their formulation.

3. Identification of essential workers and accommodating them in bilateral instruments or skills mobility partnerships: The pandemic has demonstrated that some migrant workers, irrespective of their skills, are “essential workers”. This applies to health workers of all skill levels, care workers, and agricultural and food supply workers, among others. A first step would be to identify such sectors/occupations and decide on whether there should be separate skills mobility agreements for them or what special provisions need to be added to existing agreements. The demand for their services is not temporary and admissions on a longer-term basis may be arranged.

4. Interregional dialogue on labour migration, including BLMIs: African countries increasingly recognize the importance of multilateral regional and interregional dialogue on migration to the Middle East, as noted above (ILO 2019b). The African Union Revised Migration Policy Framework for Africa (African Union 2018) called for “cooperation and collaborative partnerships extending throughout Africa, and beyond, to other States and regional entities such as the European Union and the League of Arab States”. The Colombo Process of Asian countries of origin and the Abu Dhabi Dialogue of GCC and Asian countries are consultative processes that can provide useful models for the African Union on these matters (ILO 2019b). The African Union and some RECs participated in the 2019 Abu Dhabi Dialogue Ministerial Meeting as observers in 2019, although they did not participate in the Sixth Ministerial Meeting during 25–27 October 2021. An interregional forum between Africa and Arab States can help in developing minimum standards for protection of migrant workers, including minimum wages and standard employment contracts for different categories of workers; carry out action-based research and pilot projects; and also work towards promotion of skills and mobility partnerships.

¹³ The “10-year Implementation Plan of Agenda 2063: Africa We Want” identified “Review all labour bilateral agreements with other member states and non-member states” as an indicative strategy for its Aspiration 2: An integrated continent, politically united and based on the ideals of Pan Africanism and vision of Africa’s Renaissance (African Union Commission, 2015). See also (ILO Africa, 2019).

5. Dissemination of BLMIs to concerned stakeholders: It is important to improve the transparency of BLMIs in both origin and destination countries by disseminating them widely, and especially by sharing them with concerned stakeholders – social partners, private employment agencies, and migrant and civil society organizations. Jordan and Qatar offer a good practice in this regard by publishing copies of all BLMIs on the Ministry of Labour website. The African Union can establish a repository of BLMIs and related texts, update it regularly and ensure it is transparently shared. At the same time, the knowledge base on BLMIs in Africa and Arab States can be improved through joint evaluations of existing BLMIs.

6. Cooperation among social partners in the two regions: Bilateral cooperation among non-government actors is crucial given the complex protection challenges faced by migrant workers. There is evidence of some cooperation between African trade unions and their counterparts in Arab States through the signing of bilateral agreements, but there is limited information on their effective implementation. These agreements need to be strengthened and expanded for better impact. There is hardly any documented evidence of cooperation between employer federations in the two regions, which is important for protection in the workplace. This requires priority attention by employer organisations in both regions.

7. Cooperation in exploring wider recruitment options: Bilateral agreements between governments with state-managed recruitment under MOUs is a good practice of the Republic of Korea, which has led to substantial reduction in recruitment costs and ensured better protection. It will be useful to introduce a government-to-government recruitment scheme, at least on a pilot basis, in the Africa–Arab States corridor. Direct recruitment by accredited employers is another option to supplement recruitment by private employment agencies.

Measures to support and strengthen the operation of BLMIs

BLMIs are only one among several options available to African and Arab States for promoting good governance of migration and ensuring protection of migrant workers. Thus, they need to be supported and supplemented by a series of other measures for effective operation including unilateral measures as needed. The existence of credible national development, employment and migration policies (including on labour migration); strong labour laws and institutions; respect for rule of law; active engagement of social partners and other stakeholders in employment and migration policies; ratification and implementation of relevant migrant worker instruments; effective regulation of private recruitment agencies; and strengthened social protection measures would provide an enabling environment for the successful operation of BLMIs.

References

- African Union. 2018. [Migration Policy Framework for Africa and Plan of Action \(2018 – 2030\)](#).
- . 2019. [“3 Year Implementation Plan of Action for the Global Compact on Safe, Orderly and Regular Migration \(GCM\) in Africa \(2020–2022\)”](#).
- . 2020a. “The Governance of Labour Migration in the Context of Changing Employment Landscapes”, Technical Paper for GFMD Breakout Session, GFMD Regional Consultations (online), 23 April.
- . 2020b. “The Future of Human Mobility: Innovative Partnerships for Sustainable Development”, Thematic Note on Theme 4: Addressing Gaps in Migrant Protection, GFMD Regional Consultations.
- . 2020c. [“Africa Labour Migration Outlook in the Post COVID-19 Era”](#), Impact of COVID-19 on Africa’s Labour Migration Landscape Policy Brief No. 1.
- . 2020d. [Report on Labour Migration Statistics in Africa](#), 2nd edition.
- African Union Commission. Forthcoming. Draft African Union (AU) Guidelines on Developing Bilateral Labour Agreements (BLAs).
- Alexandrova, Yva. 2021. “Impact of COVID-19 on Labour Mobility Frameworks in the Abu Dhabi Dialogue Corridors.” In [Abu Dhabi Dialogue Senior Officials’ Meeting: Theme 1 – Anticipated Changes in the Employment Landscape in the GCC and Their Impact on Labour Supply and Demand in ADD Corridors](#). 24–39. Abu Dhabi Dialogue.
- Alsahi, H. (2020). *COVID-19 and the Intensification of the GCC Workforce Nationalization Policies*, Arab Reform Initiative, Paris, 10th November 2020.
- Atong, Kennedy, Emmanuel Mayah, and Akhator Odigie. 2018. [Africa Labour Migration to the GCC States: The Case of Ghana, Kenya, Nigeria and Uganda](#). ITUC-AFRICA.
- ATUMNET (African Trade Union Migration Network). 2017. [“Press Statement of the African Trade Union Migration Network \(ATUMNET\)”](#), 12 September 2017.
- Bisong, Amanda. 2021. [“Regional Solutions: Regulating Recruitment and Protection of African Migrant Workers in the Gulf and the Middle East”](#), ECDPM Discussion Paper No. 292.
- Cholewinski, Ryszard. 2015. “Evaluating Bilateral Migration Agreements in Light of Human and Labour Rights.” In *The Palgrave Handbook of International Labour Migration: Law and Policy Perspectives*, edited by Marion Panizzon, Gottfried Zürcher, and Elisa Fornalé. 231–252. Basingstoke: Palgrave Macmillan.

D'Cunha, Jean. (2021). "The Future of Work for Women Migrant Workers in the Asia-Gulf States Abu Dhabi Dialogue (ADD) Regional Corridor." In [*Abu Dhabi Dialogue Senior Officials' Meeting: Theme 1 – Anticipated Changes in the Employment Landscape in the GCC and Their Impact on Labour Supply and Demand in ADD Corridors*](#). 54–88. Abu Dhabi Dialogue.

GAATW and IDWF (Global Alliance Against Traffic in Women and International Domestic Workers Federation). 2019. [*"A Job at Any Cost": Experiences of African Women Migrant Domestic Workers in the Middle East*](#).

IGAD (Intergovernmental Authority on Development). 2021. IGAD Regional Guidelines on Rights Based Bilateral Labour Agreements.

ILO. 2006. [*The ILO Multilateral Framework on Labour Migration: Non-Binding Principles and Guidelines for a Rights-Based Approach to Labour Migration*](#).

———. 2015. [*Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review*](#).

———. 2019a. [*General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*](#).

———. 2019b. [*"Interregional Dialogues on Migration Involving Countries in the Middle East and Africa"*](#), ILO Policy Advisory Committee on Fair Migration in the Middle East Discussion Note for Policymakers.

———. 2020. [*Women Migrant Workers' Labour Market Situation in West Africa*](#).

ILO Africa (2019). *Global and continental policy frameworks: Guiding labour migration and labour mobility in Africa*, ILO Regional Office for Africa, Abidjan.

ILO and IGAD (Intergovernmental Authority on Development). 2021. *Background Report: IGAD Regional Guidelines for a Rights-based Approach to Bilateral Labour Agreements*.

ILO and IOM (International Organization for Migration). 2019. [*Tool for the Assessment of Bilateral Labour Migration Agreements: Pilot-Tested in the African Region*](#).

ITCILO (International Training Centre of the ILO). 2020. "Developing and Implementing Bilateral Labour Migration Agreements in Africa", available at: <https://www.itcilo.org/resources/developing-and-implementing-bilateral-labour-migration-agreements-africa>.

OIC (Organisation of Islamic Cooperation). 2018. [*Jeddah Declaration Adopted by the 4th Islamic Conference of Labour Ministers*](#).

Saudi Arabia, Ministry of Human Resources and Social Development. 2021. [Labor Reform Initiative \(LRI\): Services Guidebook](#).

UN General Assembly. 2018. [Global Compact for Safe, Orderly and Regular Migration](#), A/RES/73/195.

UNNM (United Nations Network on Migration). Forthcoming. Guidance on Bilateral Labour Migration Agreements (BLMAs).

Wickramasekara, Piyasiri. 2018a. [Assessment Guide for Bilateral Agreements and Memoranda of Understanding on Labour Migration with Special Focus on Bangladesh](#). ILO.

———. 2018b. [Core Elements of a Bilateral Agreement or a Memorandum of Understanding on Labour Migration](#). ILO.

———. 2018c. [Good Practices and Provisions in Multilateral and Bilateral Labour Agreements and Memoranda of Understanding](#). ILO.

Contact details

International Labour Organization
Route des Morillons 4
CH-1211 Geneva 22
Switzerland

T: +41 22 799 7239
E: @ilo.org