Overview: Migration in SADC and social protection for SADC migrants

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- **South–South (S–S) migration** (involving developing countries) equals South–North migration – one-third of 232 million migrants world-wide. In Sub-Saharan Africa (SSA): S–S migration accounts for 69% of migration from SSA. The general tendency is for migration to take place within the same geographical region (*World Migration (WMR) 2013*).

- **SADC** consists of 15 Member States, and is one of 8 RECs in Africa, comprising 276 million residents. Its major migration drivers include **poverty** (45% survive on below US1 per day) and **unemployment** (overall 24.9%) and the impact on, and impact of **HIV/AIDS** (one-third of the world’s HIV/AIDS sufferers live in SADC).
Trends, tendencies and complexities: SADC perspectives

- Traditionally, there has been a strong focus on labour migration in SADC, due to economic opportunities in receiving countries.

- Remittances are playing a powerful role, in particular for LDCs (e.g., in the case of Lesotho, remittances constitute 28.5% of its GDP). There has also been some indication of a high development impact of increasing diaspora engagement in the South.

- There has been a marked increase in irregular migration, smuggling and human trafficking – as a result of security reasons, poverty, and economic disparities.
Intra-SADC migration (i.e. migration within SADC) is the prevailing characteristic of migration from SADC countries. Intra-SADC labour migration is deeply entrenched and generations long, often within the same households.

For many, migration has become a career. The majority of those who migrate within SADC are men, household heads, older and married; the primary reasons for migration relate to livelihood support and economic improvement. (World Bank Report, 2009; ILO Report, 2010)
Social protection challenges facing SADC migrant workers

- SADC migrant workers are exposed to maltreatment in host countries, often caused or aggravated by nationality discrimination in laws and practice.

- For several reasons SADC migrant workers may not be covered by the social security system of neither the host nor the home country. These reasons relate to:
  - Lack of extra-territorial application of domestic laws
  - Nationality and/or residence requirements
  - Contribution period required for long-term (e.g., retirement) benefits
  - Work in the informal economy
  - Documentation and other administrative barriers
Some challenges

- **National** labour, social security, migration and related **policies** and **legal frameworks** in SADC countries do not capture the social protection plight of migrant workers and their families sufficiently.

- **Bilateral** labour agreements and memoranda of understanding make limited provision for employment protection while largely ignoring social security protection of migrant workers.
Some challenges

- **Social security portability arrangements** seem to be either completely lacking or inadequately developed.

- Despite important exceptions, the extension of social security protection by *countries of origin* to their own migrant workers may yet have to develop.

- **Multilateral arrangements** at the regional level are, despite the world-wide eminence of such arrangements, sorely lacking in SADC.
Some SADC responses: The Protocol on Employment and Labour

- In the area of labour migration, the most important and most recent instrument is the newly adopted SADC Protocol on Employment and Labour (2014).

- Art 19 of the Protocol stipulates that State Parties shall ensure that fundamental rights, in particular employment and social protection rights, are accorded to migrants.

- Provision is also made for equal treatment; (ex-)portability of social security benefits; demand-driven, legal and safe labour migration; and enhancing the transfer and developmental use of remittances.
Bilateral Labour Agreements (BLAs) have become a key component of extending employment protection to labour migrants. This is needed in view of the prevalence of discrimination against migrant workers in the laws and practice of many receiving countries, including most SADC Member States, as regards labour market access for and treatment of migrant workers. (*ILO Report, 2010*) BLAs regulate labour migration flows and extend employment rights, and remove or minimise restrictions.

However, **limited use** has been made of BLAs in SADC, except for, in particular, decades-old but inadequate labour agreements between South Africa and certain neighbouring countries. The Mauritian circular agreements with some developed countries could serve as an important model. Ghana has had similar positive experiences; several African countries have taken steps to enter into such government-to-government agreements.
Migrant workers are often not covered by the social security system of either the home or host country. Therefore, bilateral (and multilateral) social security agreements are world-wide regarded as the core intervention for extending social security protection to migrant workers.

In most SADC countries, however, as indicated, limited use has been made of bilateral social security agreements, to the detriment of workers. Structural differences between different types of social security schemes in SADC complicate matters.

Multilateral agreements set standards and principles at the regional level informing bilateral and unilateral arrangements, and serve as an expression of regional integration.
Strengthening the protection of labour migrants: social security arrangements

- **World-wide examples** of such multilateral arrangements operate within the EU, as well as among Latin American countries and between these countries and Andorra, Portugal and Spain (the Ibero–American Social Security Agreement).

- In **Africa**, increasing use is made of multilateral agreements – see, for example, the new ECOWAS General Social Security Convention of 2013 (West Africa). However, such an agreement is conspicuous by its absence in SADC.
As regards multilateral and bilateral agreements, in addition to the establishment of an autonomous regional agency to address matters of portability (see the 2014 Protocol), a phased/incremental approach may be called for in SADC – in relation to:

- Types of schemes covered
- Types of benefits provided
- Categories of persons covered
- Countries included

Many developing countries (e.g. Philippines; Mozambique) have unilaterally extended their own social security protection to their migrant workers if they are not covered by the system of the country of destination. SADC still has to develop a framework for this. Mozambique, however, provides for this.
Conclusions and recommendations

- There is need to **address the underlying drivers** of migration, as comprehensive and holistic approaches in partnership fashion may be called for – e.g., in relation to youth unemployment.

- The **large-scale exclusion of significant categories of migrant workers** from social protection similarly requires comprehensive and holistic approaches. The protection of migrant workers implies multi-faceted and collaborative responses.
Conclusions and recommendations

- International, continental and sub-regional (e.g. SADC) instruments and frameworks play an important regulatory and social protection role as regards migrants, in areas such as –
  - Prohibition of discrimination
  - Portability of social security entitlements/benefits
  - Ethical recruitment of migrant workers

- Yet, ratification is limited and implementation is weak, while laws and policies at the national level need to be aligned with these instruments and frameworks. These laws and policies, as is the case with administrative practices, invariably discriminate against citizens from other SADC countries, make little provision for social security portability, and fail to adequately regulate the fair recruitment of migrant workers.
Conclusions and recommendations

- AU and SADC instruments are important building blocks towards a streamlined regulation of labour migration and the movement of business skills and professionals. However, SADC countries in particular lag far behind, also and in particular from the perspective of regional freedom of movement.

- Intra-SADC migration is a daily reality, and is likely to increase. Given wide-spread un- and underemployment, and in an attempt to ensure individual and household survival, proper arrangements providing for employment and social protection of migrant workers, embedded in suitable government-to-government labour and social security agreements are needed.
Conclusions and recommendations

- This requires the **careful consideration** of current bilateral agreements and of new agreements to be concluded, supported by an appropriate (SADC) **multilateral** agreement. In this way, one believes, expression will also be given to the SADC imperative of **regional integration**.

- In the **absence of meaningful social protection** offered by the systems of the host country, and by bilateral and multilateral agreements, SADC countries should consider extending social security coverage **unilaterally** to their migrant workers abroad, in accordance with international precedent.