

KINGDOM OF LESOTHO | SECOND PROFILE 2021

MIGRATION GOVERNANCE INDICATORS



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MIGRATION GOVERNANCE INDICATORS

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OBJECTIVE

The MGI aims to support well-managed migration policy by helping countries assess the comprehensiveness of their migration governance structures and identify priorities on the way forward.

MGI follow-up assessments identify the migration policy developments that have occurred since the countries' first MGI assessments, thus helping governments track their progress on national priorities as well as commitments taken at the regional and international levels.

The MGI can be used to spark a discussion with governments and other relevant stakeholders in the country on existing migration policy structures. It can help assess whether these structures, which have often been in place for several years, still address the main challenges and opportunities of today's reality.

INTRODUCTION

This is an era of unprecedented mobility, and the need to facilitate orderly, safe, regular and responsible migration and mobility is becoming increasingly relevant.¹ The need to face the challenges and to maximize the opportunities that this mobility brings has been recognized with the inclusion of migration in the 2030 Agenda for Sustainable Development, which highlights the positive contribution of migrants to inclusive growth and development. Migration is integrated in a number of Sustainable Development Goal (SDG) targets, such as ending modern slavery and addressing the vulnerability of migrant workers. However, the central reference to migration in the SDGs is target 10.7 on facilitating “orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.²

The incorporation of target 10.7 into the 2030 Agenda created the need to define “planned and well-managed migration policies”. This is why, in 2015, the International Organization for Migration (IOM) developed the Migration Governance Framework (MiGOF). This Framework offers a concise view of an ideal approach that allows a State to determine what it might need to govern migration well and in a way that suits its circumstances.³ The Framework was welcomed by IOM Member States in the same year.

In an effort to operationalize the MiGOF, IOM worked with Economist Impact to develop the Migration Governance Indicators (MGI), a standard set of approximately 90 indicators to assist countries in assessing their migration policies and advance the conversation on what well-governed migration might look like in practice.

The MGI helps countries identify good practices as well as areas with potential for further development and can offer insights on the policy levers that countries can use to develop their migration governance structures. However, the MGI recognizes that all countries have different realities, challenges and opportunities that relate to migration. Therefore, the MGI does not rank countries on the design or implementation of their migration policies. Finally, the MGI does not measure migration policy outcomes or institutional effectiveness. Instead, it takes stock of the migration-related policies in place and operates as a benchmarking framework that provides insights on policy measures that countries might want to consider as they progress towards good migration governance.

MGI follow-up assessments aim at showing the progress that countries have achieved in their migration governance policies since their first MGI assessment. Concretely, this report presents a summary of the main changes and achievements that have taken place in the migration governance structures of the Kingdom of Lesotho (hereinafter referred to as Lesotho),⁴ since the first assessment in 2018, as well as the areas with potential for further development, as assessed by the MGI.⁵

¹ IOM Standing Committee on Programmes and Finance, Seventeenth Session (S/17/4 of 29 September 2015), Article 2.

² IOM Council, 106th Session, Migration Governance Framework (C/106/40 of 4 November 2015), page 1, footnote 1. Available at <https://governingbodies.iom.int/system/files/en/council/106/C-106-40-Migration-Governance-Framework.pdf>.

³ Ibid.

⁴ The 2018 Migration Governance Snapshot for the Kingdom of Lesotho is available at www.migrationdataportal.org/overviews/mgi/lesotho#0.

⁵ The MGI initiative is a policy-benchmarking programme led by IOM and implemented with the support of Economist Impact. Funding is provided by IOM Member States.

CONCEPTUAL FRAMEWORK

MiGOF

The IOM MiGOF sets out the essential elements to support planned and well-managed migration. It seeks to present, in a consolidated, coherent and comprehensive way, a set of three principles and three objectives which, if respected and fulfilled, would ensure that migration is humane, orderly, and benefits migrants and society.

PRINCIPLES

1. **Adherence** to international standards and fulfilment of migrants' rights.
2. **Formulates** policy using evidence and "whole-of-government" approach.
3. **Engages** with partners to address migration and related issues.

OBJECTIVES

1. **Advance** the socioeconomic well-being of migrants and society.
2. **Effectively** address the mobility dimensions of crises.
3. **Ensure** that migration takes place in a safe, orderly and dignified manner.

At the basis of

MGI

WHAT IT IS



A set of indicators that offers insights on policy levers that countries can use to strengthen their migration governance structures



A tool that identifies good practices and areas that could be further developed



A consultative process that advances dialogues on migration governance by clarifying what "well-governed migration" might look like in the context of SDG Target 10.7

Which supports the measurement of

WHAT IT IS NOT



Not a ranking of countries



Not assessing impacts of policies



Not prescriptive



TARGET 10.7

"Facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and **well-managed migration policies**."



KEY

FINDINGS

The MGI is composed of around 90 indicators grouped under the 6 different dimensions of migration governance that draw upon the MiGOF categories:



MIGRANTS'
RIGHTS
PAGE 14

Indicators in this domain look at the extent to which migrants have access to certain social services such as health, education and social security. It also looks at family reunification, access to work, and access to residency and citizenship. The international conventions signed and ratified are also included.



WHOLE-OF-GOVERNMENT
APPROACH
PAGE 16

Indicators in this area assess countries' institutional, legal and regulatory frameworks related to migration policies. This area also looks at the existence of national migration strategies that are in line with development objectives and overseas development efforts, as well as institutional transparency and coherence in relation to migration management.



PARTNERSHIPS
PAGE 18

This category focuses on countries' efforts to cooperate on migration-related issues with other States and with relevant non-governmental actors, including civil society organizations and the private sector.



WELL-BEING
OF MIGRANTS
PAGE 19

Indicators in this area assess countries' policies on the recognition of migrants' educational and professional qualifications, provisions regulating student migration and the existence of bilateral labour agreements between countries. Aspects of diaspora engagement in the country of origin and migrant remittances are also under this domain.



MOBILITY DIMENSION
OF CRISES
PAGE 21

This category looks at the type and level of preparedness of countries when they are faced with mobility dimensions of crises. The questions look at the processes in place for nationals and non-nationals both during and after disasters, including if humanitarian assistance is equally available to migrants as it is to citizens.



SAFE, ORDERLY
AND REGULAR
MIGRATION
PAGE 22

This area looks at countries' approach to migration management in terms of border control and enforcement policies, admission criteria for migrants, preparedness and resilience in the case of significant and unexpected migration flows, as well as the fight against trafficking in persons.

SUMMARY OF UPDATES SINCE 2018

Migrants' rights

The Ministry of Education and Training adopted the Lesotho Inclusive Education Policy (2018), which seeks to ensure no discrimination among all learners, including migrants. It also grants equal access to all educational opportunities.

The enactment of the Eighth Amendment to the Constitution of Lesotho in 2018 states that naturalized citizens are eligible for social benefits after 10 years of naturalization.

The Lesotho Immigration and Citizenship Policy of 2018 introduced a visa category that recognizes the right to family life and grants residence to immediate family members of visa holders in Lesotho.

Whole-of-government approach

Since the first MGI assessment, the Government has adopted the National Labour Migration Policy for Lesotho in 2018 and the National Diaspora Policy in 2020. In addition to the two sectoral policies, the Draft Lesotho National Migration and Development Policy (2021) has been finalized and validated by the National Consultative Committee on Migration and Development.

In May 2021, the Prime Minister launched the National Diaspora Policy, which advocates the creation of the Diaspora Directorate within the Ministry of Foreign Affairs and International Relations to serve as the Policy's coordination mechanism. The Basotho Diaspora Association (BDA) was launched on the same occasion.

Through its trade and investment agency, the Lesotho National Development Corporation (LNDC), the Ministry of Trade developed and approved the LNDC Diaspora Engagement Strategy for Trade and Investment (2020–2025) in 2020. The Strategy engages the diaspora to mobilize investment in Lesotho.

The National Strategic Development Plan II (2018/19–2022/23), approved in 2018, has a chapter dedicated to migration, with strategic policy actions and migration linkages to development and economic development.

Partnerships

Lesotho adopted the African Union's Revised Migration Policy Framework for Africa and Plan of Action (2018–2027), with the overarching objective of better migration governance. The country is also a member of several regional blocks on trade, and it participates in the Migration Dialogue for Southern Africa (MIDSA).

Well-being of migrants

The Immigration and Citizenship Policy, adopted in 2018, establishes several visa categories aimed at attracting skilled labour, including the business/investment visa, highly skilled visa, corporate work visa, general work visa, trader visa and low-skilled seasonal residence visa.

In 2019, the Government revised and aligned the Lesotho Qualifications Framework with the Southern African Development Community Qualifications Framework launched in 2017.

The National Labour Migration Policy recognizes the protection of the rights of migrant workers and calls for establishing a consistent legislative, regulatory and operational framework to promote and enforce ethical recruitment. In 2021, the Cabinet also approved the redeployment of labour attachés and the deployment of social workers to all five diplomatic representations in South Africa.

Mobility dimension of crises

In 2019, the Disaster Management Authority adopted the Lesotho National Strategic Resilience Framework (LNSRF) (2019–2030). The LNSRF provides guiding principles to address cross-border conflicts, human mobility due to big natural disasters, and transboundary migration. The Framework advocates regular disaster preparedness, and response and recovery exercises, including evacuation drills and training. The Framework also calls for the establishment of area-based support systems to ensure rapid and effective response to disasters and related displacement, including access to safe shelter, essential food items and non-food relief supplies.

Safe, orderly and regular migration

The National Diaspora Policy and the National Labour Migration Policy address issues related to returning migrants. The Diaspora Policy, under the stewardship of the Ministry of Foreign Affairs and International Relations, builds a more coordinated approach to diaspora engagement and strengthens the Basotho diaspora network, while the Labour Migration Policy addresses the reintegration of Basotho nationals into the labour force and their communities.

The country also adopted key instruments to combat exploitation and trafficking in persons, including the Anti-Trafficking in Persons Amendment Act (2021), the Lesotho National Strategic Framework and Action Plan to Combat Trafficking in Persons (2021–2026), and the Guidelines: National Referral Mechanism for the Protection of Victims of Trafficking (VOTs) and the Law Enforcement Standard Operating Procedures for Responding to Trafficking in Persons, both in 2021. The 2021 Anti-Trafficking in Persons Act addresses legislative gaps identified in the 2011 Act, such as the option of paying a fine for perpetrators found guilty of trafficking.



1

ADHERENCE TO INTERNATIONAL STANDARDS AND FULFILMENT OF MIGRANTS' RIGHTS

1.1. Migration governance: Examples of well-developed areas

The first MGI assessment of Lesotho in 2018 identified some well-developed migration governance areas, as well as ones that needed interventions. Over the past three years, the country introduced some changes in the regulatory environment, including the adoption of new policies – mainly the Lesotho Immigration and Citizenship Policy (2018), the Lesotho Inclusive Education Policy (2018) and the Eighth Amendment to the Constitution Act (2018). The Amendment improves access to social benefits for Basotho diaspora members who are citizens of other countries by allowing for dual citizenship and the acquisition of citizenship through marriage if the spouse is a citizen of Lesotho.

Section 18(1) of the Constitution of Lesotho (1993) states that no law shall make any provision that is discriminatory in itself or its effect. Section 18(2) also indicates that “no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority”. Section 5(1) of the Labour Code Order (1992) further states: “The application by any person of any distinction, exclusion or preference made on the basis of race, colour, sex, marital status, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, is incompatible with the provisions of the Code.”

Migrants have the same access as nationals to Government-funded health services in Lesotho, including access to COVID-19 vaccination. The country adopted the National Health Strategic Plan in 2017, a five-year plan that aims to achieve universal health coverage – including financial risk protection, access to quality essential health-care services, and affordable essential medicines and vaccines for all people living in Lesotho – by 2030.

Lesotho also protects migrants' rights to education. The Education Act (2010) maintains that learners are free from any form of discrimination in accessing education. The Children's Protection and Welfare Act (2011) points to education and health as rights and maintains that primary education is free and compulsory between the ages of 6 and 13 years. Technical and vocational education is open to international and national students, as provided by the Labour Code Order. The Lesotho Inclusive Education Policy emphasizes that the Ministry of Education and Training shall ensure that learners are free from any form of discrimination in accessing education and all educational opportunities.

The immigration framework of Lesotho provides permanent residency to foreigners and stateless persons based on an immigration permit or a long-term visa granted by the Ministry of Home Affairs, as per the Aliens Control Act (1966). Prior to 2018, any citizen of Lesotho who had taken citizenship of another country had to choose between the two or terminate their citizenship of Lesotho. Now, the Eighth Amendment to the Constitution Act allows for dual citizenship and the equal acquisition of citizenship through marriage for both men and women if the spouse is a citizen of Lesotho. To apply for citizenship of Lesotho, foreign nationals must have been residing in the country for more than five years or have been married to a citizen of Lesotho for at least five years.

The Eighth Amendment to the Constitution Act provides social benefits (e.g. education sponsorship, social grants, old-age pension) to those who have acquired citizenship of Lesotho by naturalization or registration once they have reached 10 years of being naturalized or registered as citizens.⁶

⁶ See Section 3(2)(a) of the Eighth Amendment to the Constitution Act.

The Aliens Control Act provides for family reunification rights to all foreigners legally residing in Lesotho under the condition that they can prove sufficient financial means to support the incoming members of their family. The Immigration and Citizenship Bill (2019) retained provisions for family reunification. Lesotho further supports family reunification by allowing the entry of family members of persons recognized as refugees, people in need of additional protection, or those granted temporary protection under the Refugee Act (1983). The Immigration and Citizenship Policy introduced Category 11 for the joining relative permit, which recognizes the need to unite families and grants residence to immediate family members of visa holders in Lesotho, provided that the visa holder can financially support the relative. However, the Relative Visa does not allow the holder to work; Relative Visa holders must apply for a separate visa to be allowed to work, in consultation with the Labour Commissioner.⁷

Non-nationals of Lesotho have equal access to self-employment as nationals, but they are limited by the list of reserved business activities according to the Business Licensing and Registration Act (2019) and the Business Licensing and Registration Regulations (2020).⁸ The licenses for these business activities are not transferable to foreign nationals.

1.2. Areas with potential for further development

According to the National Assembly Electoral Act (2011), citizens of Lesotho who reside outside the country have the right to vote in the National Assembly elections. However, due to limited resources, this right has only been exercised by Basotho diplomats. Other citizens are required to be physically present in Lesotho to exercise their right to vote. Those who acknowledge an allegiance, obedience or adherence to a foreign State are not qualified to register as electors.

While Lesotho has been a member of the International Labour Organization (ILO) since 1966,⁹ the country has not yet ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and is not a signatory of the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

The establishment of integration programmes to help migrant and local workers understand their respective rights and responsibilities, and encourage integration, while discouraging any form of discrimination and xenophobia, is an opportunity for further development.

⁷ As per the Labour Code Order.

⁸ For example, road freight transport and logistics, motor dealer, real estate agency, warehousing, domestic fuel.

⁹ More information is available at www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:11003:0::NO.



2

FORMULATES POLICY USING EVIDENCE AND WHOLE-OF-GOVERNMENT APPROACH

2.1. Migration governance: Examples of well-developed areas

Immigration is governed by the Constitution of Lesotho (1993) (as amended), the Aliens Control Act (1966) and the Refugee Act (1983). The Constitution enumerates the conditions under which one qualifies as a citizen of Lesotho.¹⁰ The Aliens Control Act lists the conditions under which non-citizens of Lesotho may enter and sojourn in the country.¹¹ The Refugee Act protects and establishes the rights of refugees and asylum seekers.

The Ministry of Home Affairs is the lead ministry that designs and coordinates migration policy in Lesotho, the Ministry of Labour and Employment is responsible for designing the labour migration policy, and the Ministry of Development Planning is responsible for designing and coordinating the country's development strategy. The Ministry of Home Affairs, through the Department of Immigration Services, is the primary agency responsible for immigration policy in Lesotho. Emigration policy is also governed by the Ministry of Home Affairs, which is responsible for the issuance of travelling documents. Policy efforts are more inclined to labour emigration, which is governed by the National Labour Migration Policy for Lesotho (2018). The Labour Code Order (1992) gives guidance on labour emigration matters with a specific focus on social protection and safeguarding the welfare of Basotho migrant workers in foreign countries.¹²

The Ministry of Home Affairs established the National Consultative Committee on Migration and Development in 2010, an interministerial mechanism to coordinate migration-related policies. The Committee meets at least three times a year.¹³ Its members include officials from government agencies and ministries, civil society organizations, development partners, academia and business associations.

The Ministry of Foreign Affairs and International Relations (MFA) developed the National Diaspora Policy, which was adopted by the cabinet in 2020 and officially launched in May 2021. The Policy created the Diaspora Directorate under the MFA to serve as its coordinating mechanism. The Policy also encourages the creation of the Basotho Diaspora Association, the Lesotho Diaspora Support Programme and the Lesotho Leads Network.

Alignment of migration strategies to national development strategies is progressing. Lesotho's second National Strategic Development Plan (NSDP II) (2018), the National Labour Migration Policy, and the Draft Lesotho National Migration and Development Policy (2021) all address migration management. NSDP II presents migration as a central component to realizing development outcomes in Lesotho and proposes improved migration management as an intermediate outcome of its key priority areas. The Draft National Migration and Development Policy and the National Labour Migration Policy ensure that labour management is in line with the development outcomes highlighted in NSDP II. Furthermore, the development of the migration policy was included in Lesotho Vision 2020 (2000), adopted in 2004, as one of the strategies for development.

The Bureau of Statistics (BOS) under the Ministry of Development Planning collects and publishes migration data through periodic surveys and compilation of administrative data beyond the national census through the Demographic and Health Survey (DHS), the Household Budget Survey (HBS), the Labour Force Survey (LFS) and the Continuous Multipurpose Household Survey (CMHS). These data are disaggregated into many

¹⁰ See Sections 40 and 41 of the Constitution of Lesotho, as amended by the Eighth Amendment to the Constitution (2018).

¹¹ See Part I – "Application and administration of the Act, regulation of sojourn of aliens, and permits" – of the Aliens Control Act.

¹² See the Labour Code Order of 1992, Parts X and XI (Sections 138–164).

¹³ In 2021, the NCC met four times up to September; the last meeting to validate the Migration and Development Policy was in July.

categories, including migrants' sexes and occupations. Administrative data are usually collected at ports of entry and exit, mainly by the BOS in collaboration with the Lesotho Tourism Development Corporation (LTDC). In 2018, the BOS collected and published the Lesotho Multiple Indicator Cluster Survey, in which migration was a variable of interest. The survey assessed whether the respondent had migrated in the past five years. The indicators in the cluster survey presented information by migratory status and years, as well as place of origin.

The Draft National Migration and Development Policy includes gender as a thematic area, focusing on migrant women and possible interventions to address gender disparities and gaps associated with migration, including gender-sensitive safety nets for women who migrate or are affected by migration (for example, women left as heads of household due to the migration of their partners or family).

2.2. Areas with potential for further development

Newly adopted policies such as the Lesotho Immigration and Citizenship Policy (2018), the National Diaspora Policy, and the National Labour Migration Policy could be more easily accessible if they were published on the websites of either the Ministry of Home Affairs or the Lesotho Trade Information Portal.¹⁴ Furthermore, these documents are only available in English and may not be easily understood by the majority of the Basotho.

Despite the existence of various surveys that collect migration-related data, there is no centralized electronic database specifically used to collect and process migration data.

¹⁴ More information is available at www.lesothotradeportal.org.ls/index.php?r=site/displaythemostrecentxx&category=Legal%20Document.

3

ENGAGES WITH PARTNERS TO ADDRESS
MIGRATION AND RELATED ISSUES

3.1. Migration governance: Examples of well-developed areas

Lesotho is part of regional migration consultative processes, including initiatives coordinated by the Southern African Development Community (SADC) Secretariat and the African Union. As a member State of SADC¹⁵ since its inception, Lesotho participates in all regional initiatives, including the Migration Dialogue for Southern Africa (MIDSA) and Global Compact for Safe, Orderly and Regular Migration voluntary reviews. There are two protocols related to migration under SADC – the Protocol on the Facilitation of Movement of Persons (2005) and the Protocol on Employment and Labour (2014). The Protocol on the Facilitation of Movement of Persons aims to facilitate entry, for a lawful purpose and without a visa, into the territory of another State Party for a maximum period of 90 days per year, as well as permanent and temporary residence in the territory of another State Party. Article 19 of the Protocol on Employment and Labour stipulates provisions for the protection of migrant workers' rights. The African Union has developed the Revised Migration Policy Framework for Africa and Plan of Action (2018–2027), which guides policy development for the member States. In 2018, the Government adopted the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (2018),¹⁶ in which Article 14 provides for the movement of workers, and for spouses and dependants to accompany migrant workers.

The Government of Lesotho engages in both national and regional migration policy consultations with civil society organizations. Civil society organizations directly connected to migration are also members of the National Consultative Committee on Migration and Development (NCC), established in 2010 to address a range of migration-related matters in Lesotho, including the development of a strategic direction for migration. Organizations such as the Basotho Immigrants Protection Organization, the Ex-Miners Association Lesotho, the Migrant Workers Association of Lesotho, the Mineworkers Development Agency and the Basotho Diaspora Association continuously engage in migrant-related developments and agenda-setting through regular Committee meetings.

NCC members also come from academia, labour agencies, State-owned entities and respective ministries; the private sector participates in an ad hoc manner. The Chamber of Commerce and Industry and the Association of Lesotho Employers and Business are regularly consulted on the migration agenda and developments. Engagement with the diaspora of Lesotho has improved significantly following the establishment and launch of the Basotho Diaspora Association in 2021, which immediately participated in the technical meetings of the NCC.

3.2. Areas with potential for further development

An organized diaspora presents opportunities to support investment and exchange in development programmes, such as telemedicine services to the health sector in Lesotho. These opportunities would yield stronger outcomes if the existence of the Diaspora Directorate¹⁷ is optimally utilized.

Ensuring the ratification and implementation of the Protocol on the Facilitation of Movement of Persons and the Protocol on Employment and Labour would have positive development outcomes for Lesotho. Fast-tracking the negotiations, signing and implementation of the bilateral agreements with Mauritius and Qatar would also contribute to economic growth through skills transfer and remittances.

¹⁵ The Southern Africa Development Coordinating Conference (SADCC) that was established on 1 April 1980 was later transformed into its successor, SADC, on 17 August 1992.

¹⁶ The Protocol has been signed by 32 out of 55 member States and has been ratified by only 4 of them. According to the Progress Report on the Free Movement of Persons in Africa, the Protocol requires 15 ratifications to enter into force.

¹⁷ A government department established by the National Diaspora Policy (2020) to focus on engaging with the diaspora.



4

ADVANCES THE SOCIOECONOMIC WELL-BEING OF MIGRANTS AND SOCIETY

4.1. Migration governance: Examples of well-developed areas

The Lesotho Council on Higher Education, established in 2004, is responsible for administering the Lesotho Qualifications Framework (LQF), verification of local and foreign qualifications, as well as evaluation of foreign qualifications as per the 3rd Generation Strategic Plan (2020), covering 2020 to 2025. Moreover, Lesotho participates in a regional qualification scheme, the Southern African Development Community Qualifications Framework, and the LQF was revised to align with this in 2019.

In line with the findings of the 2018 MGI assessment, the Government continues to protect the rights and interests of Basotho migrant workers abroad. The country has a long-standing bilateral labour agreement with the Government of South Africa since 1973. The Government of Lesotho continues to participate in the Joint Bilateral Commission of Cooperation (JBCC) with the Government of South Africa to promote the economic integration of the two States. The JBCC aims to move Lesotho from its least developed country status to a developed country and address issues relevant to both countries, including migration. Additionally, the Lesotho Exemption Permit (LEP) aims to regularize Basotho migrants residing in South Africa with irregular status.

The Labour Code Order (1992)¹⁸ and the National Labour Migration Policy for Lesotho (2018)¹⁹ promote the ethical recruitment of migrant workers. The Policy promotes ethical recruitment and provides for pre-departure training and licensing for private employment agencies. The Policy further states that the Ministry of Labour and Employment, in collaboration with employers' organizations, will develop integration programmes to sensitize migrants and local workers of their rights and responsibilities, encourage integration, and discourage any form of xenophobia.

The Government adopted the National Inclusive Finance Strategy (NIFS) (2017–2021) in 2017 to increase the outreach and quality of financial services. As a priority, the Strategy focuses on facilitating low-cost domestic and cross-border remittances and payments.²⁰ Furthermore, the Government has invested in financial inclusion measures for migrants by granting licences to financial service providers other than banks (i.e. international money transfer operators) and mobile money transfer services. This measure minimizes the transaction costs for migrants and their families. The Government has also licenced three international money transfer operators.²¹ The country registered further mobile money transfer operators in 2021; mobile communication companies had to register as separate entities regulated by the Central Bank of Lesotho under the Money Transfer Regulations (2014).

4.2. Areas with potential for further development

The Government of Lesotho administers different visa categories to attract skilled labour, as detailed in the Lesotho Immigration and Citizenship Policy (2018) and the second National Strategic Development Plan (NSDP II) adopted in 2018. NSDP II states that collecting information on occupations in demand will help make labour immigration management more effective.²² According to the Labour Code Order, the National Employment Services²³ is responsible for collecting information and statistics regarding the labour

¹⁸ The Lesotho Labour Code (1992) states that immigrants have the right to healthy, safe and equitable working conditions.

¹⁹ The National Labour Migration Policy recognizes the protection of the rights of migrant workers and the strengthening of the labour attachés in diplomatic missions. Section 6 of the Policy deals with ensuring maximum protection of and quality conditions for Basotho migrant workers abroad, and subsection 6.2.3 on the promotion of ethical recruitment discusses the establishment of consistent legislative, regulatory and operational frameworks to promote and enforce ethical recruitment.

²⁰ The National Inclusive Finance Strategy aims to reduce the average cost of non-bank low value (LSL 850) domestic remittances from 7.96 per cent to 4 per cent of the remitted value, and cross-border from 5.7 per cent to 4.5 per cent by 2021.

²¹ More information is available in the Government of Lesotho's Financial Institutions (Money Transfer) Regulations (2014).

²² NSDP II Outcome 2.5 of the KPA II emphasizes the development of the labour market information system and strengthening diaspora engagement.

²³ The National Employment Services is a department of the Ministry of Labour and Employment.

market, including labour requirements and supply, and forwarding such data to the Labour Commissioner. However, the lack of programmes monitoring labour supply and demand makes it difficult to identify which potential migrants and job seekers have the most sought-after skills, to enable decision-making on who is to get which visa and when.

Chapter 8 of the Higher Education Policy of 2013 cites improved access to higher education as a national goal. The 1993 Constitution also stipulates that higher education institutions must enact admission policies that are non-discriminatory in terms of race, gender, religion and political affiliation. Thus, migrants can access tertiary education as it applies to nationals,²⁴ except for the 25 per cent tuition difference (higher for international students). Furthermore, international students do not have the right to employment during or after their studies in Lesotho.

The revised Gender and Development Policy (2018–2030) adopted in 2018 notes a lack of gender-responsive labour market policies and supportive labour market information systems. The Policy calls for a review of the Labour Code to guide its enforcement, as well as its compliance and harmonization with international agreements.²⁵

²⁴ The Higher Education Policy acknowledges that international students need to have access to education and thus indicates that in most countries, the demand for higher education still outstrips the supply, and Lesotho is well placed to recruit more international students.

²⁵ Section 4.4.4 of the Gender and Development Policy 2018–2030, on strategic actions, indicates that to achieve the objective, Lesotho will “[a]dvocate to review employment code for compliance with and harmonization and enforcement of the international and other national [sic] legal”.



5

EFFECTIVELY ADDRESSES THE
MOBILITY DIMENSIONS OF CRISES

5.1. Migration governance: Examples of well-developed areas

The Disaster Management Authority is the government agency responsible for Lesotho's disaster-related planning and response. The Disaster Management Act (1997) is the guiding legislation regulating emergency response. The Climate Change Policy (2017) addresses climate-induced migration by improving access to microcredit and social benefits among migrants, along with the introduction of drought-resistant crops.

Lesotho's National Strategic Development Plan II (2018) includes measures to address displacement, such as displacement caused by environmental factors and localized violence, as well as guidance on managing internal migration. The Lesotho National Strategic Resilience Framework (LNSRF) (2019–2030) adopted in 2019 undertakes measures to address disaster preparedness, response and recovery, including evacuation drills, capacity-building, and establishing area-based support systems to ensure rapid and effective responses to disasters.

The Government provides essential consular services to migrants, such as the issuance of emergency travel documents. During the COVID-19 pandemic, the Government assisted Basotho migrants stranded in other countries through its consular offices – for example, the consular office in South Africa supported Basotho nationals in the country with food parcels during the lockdown from April to August 2020.

There is a coordination mechanism among duty-bearers to communicate information on the evolving nature of the crisis. Media is widely used to transmit and receive communication to and from disaster-affected communities as well. The LNSRF advocates for the use of media and communication technology for mobilization during crises – for example, it states that “[through innovation and further awareness, early warning messages are projected to reach the community for timely response, e.g. electronic and/or social media”. Moreover, Lesotho has a well-established and integrated local chieftainship and central government system that coordinates and disseminates disaster warnings.

5.2. Areas with potential for further development

The Disaster Management Act does not explicitly address migration or displacement, nor does it provide procedures to manage large-scale population movements at the time of disasters or crises. Neither the Lesotho Immigration and Citizenship Policy (2018) nor the Draft Lesotho National Migration and Development Policy (2021) has provisions to promote the sustainable reintegration of migrants that have fled during crises. Additionally, the Climate Change Policy does not consider human mobility.

Lesotho has consular services in fewer than 50 countries, and there is no national policy for evacuation or relief during crises for nationals of Lesotho abroad. Moreover, crisis communication is only conducted in English and Sesotho; hence these communications exclude other vulnerable groups and migrants who may not speak those languages.

The Refugee Act (1983) establishes exemptions to standard immigration procedures for refugees. The Act allows for persons who have entered the country to report to an immigration officer and the Commissioner for Refugees within 14 days. Under the Act, persons who enter Lesotho claiming to be refugees will not be denied entry, detained or penalized. However, there is no mention in the Disaster Management Act of exemptions to the immigration procedures for immigrants whose respective countries of origin are experiencing a crisis.



6

ENSURES THAT MIGRATION TAKES PLACE IN A SAFE, ORDERLY AND REGULAR MANNER

6.1. Migration governance: Examples of well-developed areas

Lesotho, as a member of the World Trade Organization, signed the Trade Facilitation Agreement in 2013, which entered into force in 2017. The Agreement provides for the establishment and maintenance of a single window facility at a port of entry or exit for documentation processing. The Heads of Border Agencies established the National Trade Facilitation Committee, which is dedicated to supporting coordinated border management. Border control is managed by the Department of Immigration Services of the Ministry of Home Affairs, and border security is managed by the Ministry of Police and Public Safety.

Lesotho has two policy documents that address the issues relevant to returning migrants – namely, the National Diaspora Policy (2021) and the National Labour Migration Policy for Lesotho (2018). The Diaspora Policy addresses and creates investment programmes, protects migrants, and engages in knowledge transfers for skilled professionals and the vulnerable unskilled diaspora. The Labour Migration Policy addresses issues of reintegration into the labour force and local communities.

The Eighth Amendment to the Constitution Act (2018) allows for dual citizenship to encourage the Basotho diaspora to retain and restore their citizenship of Lesotho while exploring the benefits of living in their destination countries. Similarly, the Lesotho Immigration and Citizenship Policy (2018) recognizes the importance of attracting the Basotho diaspora back to Lesotho and facilitating skills transfers. The Anti-Trafficking in Persons Act (2011) and the Refugee Act (1983) provide for the repatriation of victims of trafficking in persons and refugees from Lesotho. The Anti-Trafficking in Persons Act guarantees safety considerations during repatriation.

The Labour Code Order (1992) provides for the recruitment of foreign nationals and prohibits forced labour. The Children's Protection and Welfare Act (2011) also prohibits trafficking and abduction, as well as exploitative child labour practice in all its forms.

The Government of Lesotho's strategy to combat human trafficking is established in the Anti-Trafficking in Persons Act, last updated in 2021, and the National Anti-Trafficking of Persons Regulations No. 135 (2015). These regulations established the Multi-sectoral Committee on Combating Trafficking in Persons. Additionally, the amendments to the Anti-Trafficking in Persons Act address the limitations of the 2011 Act and criminalize all forms of sex trafficking, removing the option of a fine in lieu of imprisonment for trafficking offences.²⁶ In May 2021, the Government of Lesotho adopted the Law Enforcement Standard Operating Procedures for Responding to Trafficking in Persons as well as the Guidelines: National Referral Mechanism for the Protection of the Victims of Trafficking (VOTs).

Additionally, the Government adopted the National Referral Mechanism and Standard Operating Procedures for Responding to Trafficking in Persons in 2021, as well as the Lesotho National Strategic Framework and Action Plan to Combat Trafficking in Persons (2021–2026). This Framework and Action Plan states that VOTs must be identified, referred to the appropriate agencies, assisted and protected. Lesotho has a shelter that accommodates female victims. Part IV of the Anti-Trafficking in Persons Act provides for care and protection of the victims; Sections 22 and 23 address the guiding principles in determining who are VOTs and the duties of the professionals who may encounter them.

²⁶ The 2021 amendment of the Anti-Trafficking in Persons Act of 2011 prohibits sexual exploitation, forced labour, slavery, involuntary servitude, or debt bondage; the amendment also removed the fine option upon being found guilty of involvement in trafficking, which includes exploitation.

6.2. Areas with potential for further development

Lesotho lacks an effective system to monitor visa overstays; monitoring is done on an ad hoc basis or by border officials. Since 2013, 8 out of 14 ports of entry have been automated, making it easier to identify visa overstays. Expanding the roll-out of this system to all ports of entry and enhancing data collection is an area for potential development.

Lesotho is part of the Southern African Development Community (SADC) Trafficking in Persons Network. The Network manages the SADC Regional Anti-Trafficking in Persons Data Collection System, which is used to report, record and share information on trafficking in persons by each country; however, this data is not published regularly.

MIGRATION GOVERNANCE INDICATORS



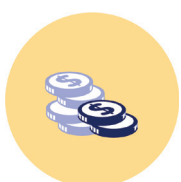
PREPAREDNESS AND RESPONSE PROTOCOLS ON THE RISKS OF THE NOVEL CORONAVIRUS (COVID-19)

This annex summarizes key national COVID-19 policy responses in Lesotho from a migration governance perspective. It is based on 12 questions that were added to the standard Migration Governance Indicators (MGI)¹ assessment in the country in order to effectively assess national migration governance in the context of the COVID-19 pandemic.



All migrants – including refugees, victims of trafficking, and those in irregular situations – have access to health care under the same conditions as citizens of Lesotho. Health centres only require a booklet containing the patient's medical history, which can also be purchased there. The 1993 Constitution does not restrict any group's access to health care, and it states that Lesotho shall “create conditions which would assure to all, medical service and medical attention in the event of sickness; and improve public health”. Initially, priority access to the first batch of COVID-19 vaccines was given to people with chronic illnesses (comorbidities), health-care professionals, or people working in high-risk environments.² As of August 2021, vaccines were rolled out to everyone above the age of 18, and no identification is required for public vaccination. The only documentation required is the medical record booklet, which allows all migrants the same access to COVID-19 vaccines as citizens of Lesotho.

The Lesotho National Health Strategic Plan (NHSP) 2017–2022 recognizes the vulnerability of migrants to health issues. It provides for improved immunization services for migrant populations as one of the strategies for disease control.³ The United Nations' COVID-19 Socioeconomic Response Plan⁴ states that, in line with the 2030 Agenda for Sustainable Development, the country demonstrates inclusiveness towards asylum seekers and refugees by granting them access to social services, such as health and education, on a par with nationals.



The support granted to businesses distinguishes only where the business is registered and not the investor's nationality. The COVID-19 Response Partial Credit Guarantee (C-PCG) 2020–2025,⁵ adopted in 2020 and implemented by the Lesotho National Development Corporation, targets all businesses in Lesotho and helps them access financial assistance to reduce the impacts of COVID-19. The Government has carried out some socioeconomic mitigation measures that targeted micro, small and medium enterprises – in the form of salary subsidies for textile industry workers and grants from April to June 2020. The

¹ More information is available at www.migrationdataportal.org/overviews/mgi#0.

² National Deployment and Vaccination Plans. Not available online.

³ This is one of the strategies contained in the NHSP: “Improve immunization services for vulnerable groups such as infants, mothers, adolescents, elderly people, people in congregate settings, PLHIV [people living with HIV] and migrant populations.” More information is available at www.childrendaids.org/sites/default/files/2018-05/Lesotho_Nat%20Health%20Strat%20Plan_2017-2022.pdf.

⁴ United Nations, *Lesotho COVID-19 Socioeconomic Response Plan* (2021). Available at <https://lesotho.un.org/sites/default/files/2021-05/Lesotho%20Socio%20Economic%20Response%20Plan.pdf>.

⁵ COVID-19 Response Partial Credit Guarantee Scheme Policy (2020). Not available online.



PREPAREDNESS AND RESPONSE PROTOCOLS ON THE RISKS OF THE NOVEL CORONAVIRUS (COVID-19)

COVID-19 Socioeconomic Response Plan⁶ recognizes high levels of poverty and the lack of a comprehensive social protection system, and acknowledges that asylum seekers and refugees in Lesotho are acutely vulnerable to the impacts of COVID-19.



COVID-19-related publications are only available in English and Sesotho, excluding the vast majority of migrants who do not understand the two languages – for example, languages spoken by migrants of Asian descent are not accounted for in the publication of COVID-19 guidance, despite the fact that there are many migrants from Asia in textile factories, which are prone to congestion.⁷



Lesotho enacted a strict COVID-19 lockdown, per Section 3(1) of the Public Health Regulations (2020)⁸ and Section 3(1) of the Public Health Regulations (2021), which do not allow persons into or out of the country.⁹ This was to reduce the spread of COVID-19. Immigrants have been granted extension on visas that expired during the lockdown period.



Collected COVID-19 statistics are disaggregated – with age, sex, country of origin and residence as variables of interest. However, the published data do not show migratory status.^{10,11}



Due to COVID-19, some remittance-receiving channels were declared as essential service providers (for example, banks and grocery stores).¹² The Re-revised Risk Determination and Mitigation Framework (2021) maintained that salaries and other payments be made through electronic channels, and it restricted the cash economy at all levels of identified risks. The Framework required that banks should be operational at different capacity levels depending on the severity of the risk identified.¹³

⁶ “Migrants will likely also need additional support, given the closure of borders and movement restrictions, which limit their ability to work. It will be necessary to map potential migration patterns or migration scenarios to ensure their social protection, access to employment and to ensure that they do not fall into poverty.” More information is available at <https://lesotho.un.org/sites/default/files/2021-05/Lesotho%20Socio%20Economic%20Response%20Plan.pdf>.

⁷ National COVID-19 Secretariat, *National Covid-19 Strategy* (2020). Available at www.gov.ls/wp-content/uploads/2020/07/National-COVID-19-PC-Strategy-Updated.pdf.

⁸ Government of Lesotho, Public Health (COVID-19) Regulations (2020). Available at www.gov.ls/wp-content/uploads/2020/05/LEGAL-NOTICE-NO.-41-OF-2020.pdf.

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ANNEXES

MiGOF: Migration Governance Framework²⁷

In an attempt to define the concept of “well-managed migration policies”, the International Organization for Migration (IOM) devised a Migration Governance Framework (MiGOF), which was welcomed by the IOM Council in November 2015. For the purposes of the Migration Governance Framework, IOM defines governance as “the traditions and institutions by which authority on migration, mobility and nationality in a country is exercised, including the capacity of the government to effectively formulate and implement sound policies in these areas”.

The Framework sets out the essential elements of “good migration governance” – 3 principles and 3 objectives which, if respected and fulfilled, would ensure that migration is humane, safe and orderly, and that it provides benefits for migrants and societies.²⁸ IOM’s view is that a migration system promotes migration and human mobility that is humane and orderly and benefits migrants and society:

When it:

- (i) Adheres to international standards and fulfils migrants’ rights;
- (ii) Formulates policy using evidence and a “whole-of-government” approach;
- (iii) Engages with partners to address migration and related issues.

As it seeks to:

- (i) Advance the socioeconomic well-being of migrants and society;
- (ii) Effectively address the mobility dimensions of crises;
- (iii) Ensure that migration takes place in a safe, orderly and dignified manner.

The MiGOF does NOT create new standards or norms. In drafting the Framework, IOM relied on its expertise and analytical work, as well as on existing commitments, non-binding declarations and statements. It does NOT address global migration governance that is the international architecture for dealing with issues related to migration and human mobility. Instead, the focus is on the governance and management of migration from the point of view of the State as the primary actor. It does NOT propose one model for all States. The Framework presents a “high road” or ideal version of migration governance, to which States can aspire.

The MiGOF is based on the understanding that, as the primary actor in migration, mobility and nationality affairs, a State retains the sovereign right to determine who enters and stays in its territory and under what conditions, within the framework of international law. Other actors – citizens, migrants, international organizations, the private sector, unions, non-governmental organizations, community organizations, religious organizations and academia – contribute to migration governance through their interaction with States and each other.

²⁷ IOM Council, Migration Governance Framework, 106th Session, C/106/40 (4 November 2015). Available at <https://governingbodies.iom.int/system/files/en/council/106/C-106-40-Migration-Governance-Framework.pdf>.

²⁸ Migration Governance Framework infosheet (2016). Available at <https://publications.iom.int/books/migration-governance-framework>.

The MGI process



1

Launch of the MGI process

The first step of the process is to explain what the MGI entails to key government officials, in order to ensure full understanding of the project and complete buy-in.



2

Data collection

The second step of the process is to start the collection and analysis of data, based on about 90 indicators grounded in the 6 dimensions of the MiGOF. A migration governance profile based on the analysis of the findings is then drafted and shared with the government counterparts.



3

Interministerial consultation

The third step of the process is to convene an interministerial consultation where all relevant ministries and other stakeholders discuss the good practices and main areas that could be developed further as identified in the draft migration governance profile, as well as priorities on the way forward. It is also an opportunity for them to comment and provide suggestions on the draft profile.



4

Publication of the report on the Global Migration Data Portal

After the migration governance profiles are finalized and vetted by government counterparts, they are published on the Global Migration Data Portal²⁹ and uploaded on the IOM Publications Platform.³⁰

²⁹ You can find the profiles at <https://migrationdataportal.org/overviews/mgi#0>.

³⁰ Please see <https://publications.iom.int/>.



www.migrationdataportal.org/mgi

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