

# Policy Brief

## Examining migrants' vulnerabilities and migration policies in Africa

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### Executive Summary

Although migration is a policy priority in Africa, north-bound migratory movements seem to occupy the migration discourse and policy debates continuously. Intra-Africa migration which accounts for the most significant portion of migratory movements in Africa is often less addressed. While African policymakers have developed policies on migration, they are yet to address the humanitarian challenges faced by migrants and engage in collective negotiations with critical players globally.

This is pertinent as migrants often face compound vulnerabilities that undermine their fundamental rights and access to essential services along migration routes. Migrants further face the risk of going missing en route to destination countries due to loss of contact with relatives, detention, or death and burial without proper documentation or identification. Other risks include

deteriorating mental health, especially during the difficult journeys from their countries of origin, stigma emanating from deportation, and likely persecution from the country of origin or countries where they may be undocumented or have an irregular status. On top of that, many migrants face prolonged detention and other forms of deprivation of freedom, lack of access to social benefits, and hostile immigration authorities in countries of transit or destination. Some migrants may be directly targeted and harmed or face xenophobia.

Thus, this policy brief examines the vulnerabilities and risks faced by migrants in Africa along migration routes, including on return and whether they are effectively reflected in migration policymaking in Africa. The brief further delves into how policymakers can influence the African Union and its member states to make it a priority to

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save lives along migration routes, improve the access of migrants to humanitarian and protection assistance, address the protection risks they are exposed to along the migratory journey, and adopt mechanisms that contribute to the prevention of migrants going missing and support families of missing migrants.

## Protection risks and vulnerabilities of migrants

Although humans have exhibited migratory tendencies throughout history, Africa has taken centre stage in the 20th and 21st centuries as a continent of mass displacement and south-south and south-north migration.<sup>1</sup> This movement of people has been exacerbated by globalisation which has brought the world closer, especially in terms of communication and ease of movement.<sup>2</sup> However, although the main argument has been that poverty drives migration, authors like Flahaux and De Haas (2016) argue that people with economic power can afford to migrate.<sup>3</sup> Nevertheless, factors like insecurity, conflict, climate change, and unstable political systems<sup>4</sup> in many global south countries, especially Africa, have increased the push for migration as people seek a better life. Furthermore, migration in Africa is not linear, as many migratory movements are seasonal and occur on similar routes. On these routes, increased securitisation of borders and border management measures taken to combat the COVID-19 pandemic led people to resort to more hazardous routes.<sup>5</sup>

It has been noted that almost 80%<sup>6</sup> of African migration is intra-Africa.<sup>7</sup> The freedom of movement protocols has facilitated this phenomenon in the different sub-regions like the Economic Community of West African States (ECOWAS), East African Community (EAC), and Southern African Development Community (SADC). The rhetoric, however, in the receiving countries has become more hardened and hostile as migration has become a central feature of domestic and international politics. Migration policies have become securitised and politicised<sup>8</sup> simultaneously as leaders have used words like migration crisis, combating illegal migration, and containing migration, thereby eliciting policies and practices that do not fully consider the protection and dignified treatment of migrants and may directly or indirectly contribute to their vulnerabilities.

Migrants are particularly at risk of encountering protection risks. Their vulnerabilities are often exacerbated because they may

face language barriers and difficult circumstances like lack of shelter, criminalisation, lack of identification or documentation, lack of community support networks, and missing their loved ones through death, detention, or loss of communication<sup>9</sup>. These vulnerabilities are further exacerbated when they move or reside in areas that are less accessible or have less access to services. For example, many migrants may be particularly vulnerable to sexual violence, and other forms of exploitation or forced recruitment in countries affected by armed conflict or may also be stranded in unsafe, remote, or in border crossings.

Depending on migration policies and practices, migrants are often faced with challenges, such as inadequate reintegration, collective deportations or forced returns, violation of the principle of non-refoulement by states, increased securitisation of borders leading to border management practices that affect the treatment of migrants, including excessive use of force, denial of access to asylum and restrictive screening practices. These issues are compounded when migrants pass through border areas or countries affected by conflict, violence, or severe impacts of climate risks.

In addition, migration policies and practices, especially those that focus on the securitisation of borders and limiting the movement of migrants, inevitably have an impact on migrants and expose them to more risks such as stigmatisation, xenophobia, lack of access to services, ill-treatment and increase in arrests and deportation but also equally, they push migrants to rely on irregular actors and irregular routes, increasing the risks of trafficking and other forms of criminality.

Schofberger and Rango note that the COVID-19 induced lockdowns restricted movements across borders, which impacted the well-being and dignity of migrants and their dependents<sup>10</sup>. The argument can be taken further to highlight the subsequent risk of relying on human trafficking networks, thereby paying large sums of money and increasing their risk of abuse. Men, women, and children have been trafficked off as sex workers and held in slave-like conditions. The likelihood of dying while in transit increased for many Africans as they are usually overcrowded in the different modes of transport, cross through harsh environments with no access to services, and take increasingly risky journeys. The increase in criminalisation related to irregular migration also meant fewer safe shelters for migrants, which resulted in migrants going into hiding and relying on irregular actors for their shelters. These were often overcrowded and with poor hygiene and further exposed migrants to sexual violence and trafficking. This issue became even more problematic with the public health consequences of a pandemic. During the COVID-19 pandemic, many did not have access to medical care or vaccination in transit and were. Therefore, more were at risk of dying from the Coronavirus.

Furthermore, countries used the pandemic border closures to prevent foreigners from entering their territories which have endangered people in need of international protection, therefore, denying them measures to safeguard them against re-outrage.<sup>11</sup> On the other hand, the porous nature of the African borders and ungoverned spaces controlled by armed groups and organised criminal networks<sup>12</sup> increased migrant vulnerabilities and exposure to harm.

Flahaux and De Haas (2006) argue that the bulk of migration on the African continent occurs as people migrate within their regions of origin.<sup>13</sup> Although intra-African migration has not been historically problematic, human security challenges persist especially xenophobic attacks in destination countries. The porous nature of borders has exposed migrants to human traffickers, extortionate border officials, or exposure to harsh and dangerous natural environments.

## African migration policies on the protection of migrants en route

Key destinations for intra-African migrants included Algeria, Cote D'Ivoire, Libya, Nigeria, South Africa, and Gabon, most recently.<sup>14</sup> African states have endeavoured to include migration protocols and frameworks in various frameworks. The formation of subregional bodies has entailed freedom of movement clauses within the Economic Community of West African States (ECOWAS) and East African Community (EAC), Economic Community of Central African States (ECCAS) having a more open approach to migration. The Arab Maghreb Union has aspects of freedom of movement, but geopolitical tensions like Morocco and Algeria have limited its effectiveness. The Southern Africa Development Community allows facilitation of movement as countries are not open to unregulated freedom of movement.<sup>15</sup>

Furthermore, the Intergovernmental Authority on Development (IGAD) launched a regional migration policy framework in 2012 to provide a comprehensive approach to migration management. Some of the goals were to harmonise policies, provide recommendations on several migration issues, and support states in developing migration policies aimed at addressing challenges but in a more holistic manner<sup>16</sup>. This is regionally

specific and addresses vital issues: pastoral migration and internal displacement due to political instability.

These sub-regional developments have created enclaves on the continent and hindered a unified approach to protecting migrants. Additionally, the framers of the protocols do not account for seasonal migrants, including pastoralists who cross without passports while looking for pasture and water for their animals or communities with families living across borders. However, the African Continental Free Trade Area (AfCFTA) has been developed to remove the sub-regional barriers. It should be noted that within the sub-regional context, migration is primarily addressed as a subject of economic development.

Nonetheless, it should be noted that the AU adopted the Migration Policy Framework for Africa of 2006, which underlines key drivers of migration like environmental degradation, conflict, and poverty.<sup>17</sup> Yet, the framework is non-binding and provides policy recommendations to the AU Member States and the sub-regional bodies. They are, however, not under obligation to take aboard these recommendations. The revised African Migration Policy Framework of 2018 provides a more comprehensive and sobering assessment of the risks faced by African migrants, especially those trying to cross the Mediterranean. It delves into the lack of data on south-south migration, especially as it accounts for more than half of African migration. There is an acknowledgement of the work of the AU in Agenda 2063, which is geared towards economic development and further facilitation of freedom of movement in Africa.<sup>18</sup> Yet questions emerge on how African states will deal with the migratory movements which remain seen in the competition of the needs of their indigenous populations.

The AU Commission Initiative against Human Trafficking (AU COMMIT) was set up in 2009 to coordinate and develop synergies in combating trafficking in persons in Africa.<sup>19</sup> Although it does not directly emphasise migration, it was set up to address a key vulnerability of migrants. However, it was only launched in ECOWAS, IGAD, and SADC. Thus, it was not applied on a continental level. This further emphasises a lack of a binding continental approach to addressing vulnerabilities and risks faced by migrants as the policy tools essentially provide recommendations and do not lead to state responsibility or binding commitments.

The European Union (EU) and AU have jointly developed action plans like the Cairo Action Plan in 2000, which underlined the need for cooperation between the EU and Africa in addressing the root causes of migration both in countries of origin and transit and in recipient countries.<sup>20</sup> In addition, the Tripoli Process is an 82-member arrangement launched in 2001 that involved high-level consultation on EU-Africa partnership on migration, mobility, and employment.<sup>21</sup> The Ouagadougou Action Plan was launched in 2006 to deal with the trafficking of women and children.<sup>22</sup> The Rabat

Process launched in 2006 brought together 57 partners including the EU, African states, and other actors to build a framework for migration for countries of origin, transit, and destination of the migration routes, which links mainly north, central, and west Africa with the EU.<sup>23</sup> The Khartoum Process set up in 2014 represents joint EU and Horn of Africa dialogue on migration and mobility with support for Member States to identify and implement projects to address human trafficking and migrant smuggling.<sup>24</sup>

These action plans and processes were designed to put in place migration management processes and address human trafficking, especially with frontline states like Egypt, Libya, Morocco, and Sudan.<sup>25</sup> A significant challenge facing them is that they are not legally binding.

The lack of a binding policy approach to migration at the continental level has been compounded by the COVID-19 pandemic. Combating this pandemic has taken precedence over other existing issues like migration. Thus, border closures have curtailed access for migrants to safe-havens. Moreover, the inability to use legitimate channels and vessels has pushed most migrants to illegal methods that have cost them their livelihoods, freedom, and lives.

The AU and its sub-regions have not developed far-reaching policies addressing the mental health of returning migrants, especially concerning the stigma and shame they experience. The human rights policy gap also fails to help those asylum seekers whose requests were rejected by countries of destination. With no financial power or legal knowledge to contest their deportation or repatriation, many are returned to face persecution and poor reintegration in their countries of origin.

## Access to humanitarian assistance and protection for African migrants

Since the majority of migration in African is internal,<sup>26</sup> there is a need for policymakers in the AU and/or sub-regional bodies to first develop binding continental-wide principles and policies to ensure humanitarian assistance and protection are accorded to African migrants. These can guide the African states at the point

of departure, transit, and final destination within the continent. This will provide harmonisation of laws and obligations on the states' side to ensure the humane treatment and protection of migrants at all points of their journeys. Lack of harmonisation and accountability minimises the space for rights-based policies to be adopted or implemented and leaves migrants exposed to abuse and denial of their fundamental rights.

## Recommendations

African states need to develop a binding rights-based protocol on the treatment of migrants. There is a need to address policy gaps relating to access to international protection and address rejected asylum claims and the possibility of many people facing political persecution when returned to their countries of origin or third countries. In these circumstances, states must ensure respect for international obligations and standards such as the principle of non-refoulement.

Likewise, on the issue of voluntary returns, measures should be in place to reintegrate them through a sustainable approach that considers economic and social and mental health factors. African states should work with non-governmental organisations (NGOs) and the countries from which the migrants are returning to facilitate a smooth transition.

African states need to present a united front when negotiating with regions like the EU, Middle East, and North America with the ultimate aim of acquiring agency in ensuring access to humanitarian assistance and protection of Africans along the routes but also when they arrive as well as those who voluntarily return to their countries of origin. Collective bargaining removes the ability of these regions of destination to employ pressure or partnerships with individual states. This is especially crucial as EU border policies impact some vulnerabilities, like freedom of movement across African borders.

Migration policies should address the needs of migrants, including access to essential services along migration routes. Moreover, there is a need for proper documentation and coordination between states in the different subregions to monitor the movement of people and ensure safe passage as Africa emerges from the COVID-19 pandemic. Besides, there is a need to emphasise access to vaccines for migrants and availing of proper documentation.

It is also crucial to develop continental and regional mechanisms to clarify the fate and whereabouts of missing migrants. Information sharing networks between states and regions should be facilitated,

especially along migratory routes. Furthermore, support should be availed by states to families of missing migrants.

## Conclusion

It is evident that although the AU has developed frameworks on migration, they need to be updated to address better the vulnerabilities brought on by COVID-19 and the securitisation of the migration narrative. Moreover, policymakers need to vigorously explore policies on addressing the stigma experienced

by returning migrants and the threat of xenophobia. Serious consideration must be given to resettlement schemes for rejected political asylum seekers in the global south and the global north. But more urgently, there is a need to harmonise migration policies and frameworks across the different sub-regions. There is a need for coordination between subregions especially concerning lateral collaboration.<sup>27</sup> The AU Member States need to pool their bargaining power to maximise agency, to ensure that the dignity and fundamental rights of African migrants, especially in other regions, is respected.

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