



## Migration Governance Snapshot: the Kingdom of Lesotho

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In 2015, the International Organization for Migration (IOM) developed a [Migration Governance Framework \(MiGOF\)](#) to help countries define what “well-managed migration policy” might look like at the national level. The MiGOF was welcomed by IOM’s Member States in the same year. The Migration Governance Indicators (MGI)<sup>1</sup> were developed to assist countries operationalize the MiGOF by using a standard set of approximately 90 indicators that could be applied across six key policy domains.

The MGI is a tool based on policy inputs, which offers insights on policy levers that countries can use to develop their migration governance. The MGI is not intended to function as a measurement of outcomes related to migration policies and institutions. Instead, it operates as input-based benchmarking framework that offers insights on policy measures that countries can use to strengthen migration governance. The MGI is not meant to rank countries in the assessment of the comprehensiveness of their migration policies, or to identify gaps and areas that could be strengthened. The MGI aims to assist countries while advancing the conversation on migration governance by clarifying what “well-governed migration” might look like in the context of the [Sustainable Development Goal Target 10.7](#), “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.”

This country snapshot presents a summary of well-governed areas of the Kingdom of Lesotho’s (hereafter referred to as Lesotho) migration governance structures, as well as the areas with potential for further development, as assessed by MGI.

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With research and analysis by



## Introduction to migration in Lesotho

Lesotho has a unique geographical location, being completely surrounded by the Republic of South Africa. The two countries have important historical and cultural links but, while South Africa is among the largest economies of the African continent, Lesotho has high poverty levels, particularly in rural areas, and is characterized by strong economic inequalities and lack of employment opportunities and basic services. These factors determine significant migration flows between the two countries. In particular, Lesotho plays a major role in supplying workers to South Africa, especially in the mining industry.

## Key findings

### I. Adherence to international standards and fulfilment of migrants' rights

#### I.1. International conventions ratified

The table below follows a standard format and looks at the ratification of specific international conventions. The list of conventions covered is by no means exhaustive.

Convention name	Ratified
International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97)	No
United Nations Convention relating to the Status of Refugees, 1951	Yes (1981)
United Nations Convention relating to the Status of Stateless Persons, 1954	Yes (1974)
United Nations Convention on the Reduction of Statelessness, 1961	Yes (2004)
ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	No
United Nations Convention on the Rights of the Child, 1989	Yes (1992)
United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	Yes (2005)

#### I.2. Migration Governance: Examples of well-developed areas

- (a) **Equal access to health services:** Immigrants have equal access to health care as citizens of Lesotho. These include refugees, victims of trafficking and even irregular immigrants, as health centres do not require immigrants to present specific documentation in order to gain access to services. However, for certain procedures requiring payment, immigrants may have to pay higher fees than nationals.
- (b) **Equal access to primary education:** Education is available to all children between the ages of 6 and 13, including immigrants.
- (c) **Portability of social benefits (pensions):** There are schemes for international portability of pensions. Portability of pensions was developed in the 1973 labour agreement between Lesotho and South Africa. The Deferred Pay Act of 1974, which was later repealed by the Deferred Pay Act of 2009, introduced the deferred pay system to allow mineworkers to remit funds into the country. The 1974 Act allowed only for collection of moneys into a pool bank account, whereas the 2009 Act introduced the individual/personal bank account system. The Southern African Development Community (SADC) Code on Social Security, adopted in 2008, also promotes such portability among its member States.
- (d) **Paths to citizenship:** Lesotho is in the final stages of adopting the Immigration and Citizenship Bill of 2018, which states that permanent residence shall be granted to persons who have resided in Lesotho for five years and who possess a returning migrant, spousal or residence permit. The length of time required to obtain citizenship is dependent on the category of immigrant, and ranges from two to five years.
- (e) **Civil and political rights:** According to the Constitution of Lesotho, every citizen aged 18 and above registered on the voters' roll has the right to vote. Basotho living outside the country can vote in

national elections through the embassies and consulates abroad, provided the electoral commission is notified and appropriate arrangements are made.

### **1.3. Areas with potential for further development**

- (a) **Full Social Security Bill:** To ensure full implementation of the portability of social security rights, including for all migrant workers, the Social Security policy and the Social Security Bill need to be approved.
- (b) **Restriction of work:** Foreigners may face some restrictions in accessing work as they must obtain a work permit from the Labour Commissioner. Before such a permit can be issued to non-Basotho, the National Employment Service must certify that no citizen of Lesotho is qualified and available for the employment in question.
- (c) **Access to public sector work:** The current legislation is not sufficiently clear on the eligibility of foreigners to be employed in the public sector. However, in practice, permanent positions are limited to Basotho nationals, while foreigners can undertake only specific tasks.

## **2. Formulates policy using evidence and whole-of-government approach**

### **2.1. Migration Governance: Examples of well-developed areas**

- (a) **Reform on citizenship and immigration:** The national immigration policy in Lesotho has recently undergone some reforms. The Lesotho Immigration and Citizenship Policy of 2017 has been adopted by the Cabinet. The Immigration and Citizenship Bill of 2018 is intended to replace the Aliens Control Act of 1966 and the Citizenship Order of 1971, to provide a comprehensive overhaul of immigration policy. Lesotho has never allowed more than one citizenship, but with the advent of the Eighth Amendment to the Constitution of the Lesotho Bill of 2018, dual citizenship is going to be allowed. As of June 2018, the Bill is in Parliament in its final stage.
- (b) **Legal foundation to protect emigrants:** Regarding emigration, the Labour Code Order No.24 of 1992 Part X and Part XI (Sections 138–164) gives guidance on labour emigration matters, with a specific focus on social protection – that is, safeguarding the welfare of Basotho migrant workers in foreign countries. The Government of Lesotho also addresses emigration via its memorandums of understanding (MOUs) with South Africa, and through the Joint Bilateral Commission of Cooperation.
- (c) **Interministerial coordination mechanism:** The National Consultative Committee on Migration (NCC) is an interministerial mechanism coordinating migration-related policy efforts. NCC is co-chaired by the Ministry of Home Affairs and IOM. The members include, among others, the Ministries of Labour and Employment, Development Planning, Education, Social Development, and Foreign Affairs, in addition to social partners, employers and members of trade unions, academia and community-based organizations dealing with migration.

### **2.2. Areas with potential for further development**

- (a) **Lack of migration policy:** While there is a draft national migration and development policy, there is not yet a national strategy in place. Moreover, documents and policies relating to migration governance in Lesotho are fragmented and not easily accessible in one location.
- (b) **Limited migration data:** The Bureau of Statistics collects migration data systematically through censuses and surveys, but the scope and related analysis are limited. Additional migration data are collected by individual government agencies as part of their administrative procedures, such as immigration/emigration data, tourism data and labour-related data, including migration status, but there is no centralized electronic database specifically used to collect and process migration data.
- (c) **No institution for diaspora members:** There is currently no dedicated agency tasked with the engagement of diaspora members. However, there have been several attempts to increase

participation of the diasporas in policy development/implementation, including the introduction of a returned migrant permit and the proposed Eighth Amendment to the Constitution of Lesotho, which would allow for dual citizenship.

- (d) **Vertical policy coherence:** Vertical policy coherence is also limited, as policy development processes are highly centralized and often do not reach the district/community level.

### 3. Engages with partners to address migration and related issues

#### 3.1. Migration Governance: Examples of well-developed areas

- (a) **Partnership at the global level:** Lesotho is participating in the Global Forum on Migration and Development, and is a member of the Executive Committee of the Office of the United Nations High Commissioner for Refugees and a Member State of IOM and ILO.
- (b) **Partnership at the regional level:** Lesotho is a member State of SADC and participates in the Migration Dialogue for Southern Africa (MIDSA) initiative, a collaborative effort between IOM and the Southern African Migration Project, which brings together countries to discuss and agree on migration-related issues of regional concern. It is also a member State of the SADC Secretariat for regional policy integration and poverty alleviation, as well as a member of the African Union.
- (c) **Partnership at the bilateral level:** There is an MOU on labour between Lesotho and South Africa, as well as a Lesotho Special Permit programme introduced in 2015 aimed at regularizing irregular Basotho people residing in South Africa at that time. In addition, an MOU between Lesotho and Mauritius has been under discussion as of 2018. Other MOUs include one with Angola and Mozambique for visa abolition.
- (d) **Partnership at the national level:** The National Consultative Committee on Migration and Development engages diverse stakeholders and working groups, including civil society. Civil society organizations such as the Basotho Immigration Protection Organization, Ex-miners Association, Migrant Workers Association and the Mineworkers Development Agency have participated in the Committee.

#### 3.2. Areas with potential for further development

**Private sector involvement in NCC:** Engagement with the private sector to discuss migration policy has been very limited and irregular. The private sector has been involved with NCC in relation to labour migration.

### 4. Advances the socioeconomic well-being of migrants and society

#### 4.1. Migration Governance: Examples of well-developed areas

- (a) **Forward-looking development-oriented immigration policy:** The Lesotho Immigration and Citizenship Policy of 2017 is the first development-oriented immigration policy in the country. It aims to establish several new types of visas to attract highly skilled immigrants to Lesotho. It complements the Immigration and Citizenship Bill of 2018, which relaxes citizenship procedures for those intending to establish a business, as long as they meet minimum capital requirements or possess high-demand labour skills.
- (b) **Extensive bilateral negotiations:** In an attempt to strengthen labour migration management, Lesotho has relied extensively on bilateral policies with South Africa. For instance, the first Bilateral Labour Agreement between the two countries to regulate the movement of mining employees and other employees in designated sectors was signed in 1973, and an MOU on Labour Cooperation was signed in 2006 and then updated in 2013. Furthermore, the Joint Bilateral Commission of Cooperation was established to handle issues relevant to both countries, including migration. The two countries signed a Declaration of Intent, which introduced the Lesotho Special Permit in 2015, providing the right to

stay in South Africa until the end of 2019 for the Basotho working, studying or running businesses there.

- (c) **Facilitate skills mobility through labour migration:** The Government of Lesotho is currently negotiating a labour mobility agreement with the Republic of Mauritius, and intends to diversify the countries of destination for its labour through circular labour migration programmes and other schemes.

#### **4.2. Areas with potential for further development**

- (a) **Lack of labour market information:** The Citizenship and Immigration Bill of 2018 aims to introduce less-stringent requirements for citizenship and naturalization for immigrants possessing scarce or critical skills. However, there is currently no programme monitoring labour market demand for immigrants in Lesotho.
- (b) **Lack of labour migration policy:** The National Labour Migration Policy has not been approved at the Cabinet level.
- (c) **Remittance scheme underdeveloped:** The country has not yet developed remittance schemes, despite the important contribution of remittances to the national economy. The National Strategic Development Plan (NSDP) II suggests that the Government of Lesotho should develop an appropriate legal framework for emigrants remitting to Lesotho and for migrants in Lesotho remitting to their countries of origin.

### **5. Effectively addresses the mobility dimensions of crises**

#### **5.1. Migration Governance: Examples of well-developed areas**

- (a) **Protection mechanism for those fleeing crisis:** The country has implemented measures to make exceptions to the immigration procedures for those migrants whose countries of origin are experiencing crisis. Exceptions to normal immigration procedures for refugees are established in section 9 of the Lesotho Refugee Act of 1983, and Refugee Regulations of 1986. The Act allows for persons who have entered the country irregularly to report to an immigration officer within 14 days to apply for asylum. Under the Act, persons who enter Lesotho as asylum seekers cannot be detained or penalized.
- (b) **Protection mechanism for Basotho abroad:** Lesotho keeps a limited record of nationals living abroad. Embassies and consulates provide assistance to those in need (depending on availability of funds). Assistance includes support during emergencies – for instance, the issuance of emergency travel documents.
- (c) **Early warning to the community:** There is a system in place to communicate information on the evolving nature of crises and how to access assistance. There is a way for the public to communicate their needs to the Government through the existing disaster management framework. The meteorological service provides early warnings of weather events.
- (d) **Climate change and human mobility:** SADC recognizes climate-induced migration, environment and food security as humanitarian concerns in the region, and Lesotho participates in SADC initiatives.

#### **5.2. Areas with potential for further development**

- (a) **Domestication of the Kampala Convention:** The Lesotho NSDP I (2012/2013–2016/2017) does not include a plan of action to tackle displacement in times of crisis. However, Lesotho has ratified the African Union Convention on Refugees, Returnees and Internally Displaced Persons in Africa, 2009 (Kampala Convention), which addresses displacement. Nonetheless, Lesotho has not passed any legislation to incorporate its obligations under the Convention into domestic law.

- (b) **Mobility in disaster management:** The Disaster Management Act (No. 2 of 1997) establishes the Disaster Management Authority as the government agency responsible for disaster-related planning and response. However, the Act does not specifically address migration or displacement. Nor does it set out procedures to manage large-scale population movements in the event of crisis.

## 6. Ensures that migration takes place in a safe, orderly and dignified manner

### 6.1. Migration Governance: Examples of well-developed areas

- (a) **Trafficking in Persons (TIP) framework in place:** The Government of Lesotho's strategy to combat human trafficking is integrated into the National Anti-trafficking in Persons Strategic Framework and Action Plan/Anti-Trafficking in Persons Act, No. 1 of 2011, as well as into the National Anti-trafficking of Persons Regulations (No. 135 of 2015). The 2015 Regulations establish the Multisectoral Committee to Combat Trafficking in Persons, and in Part III assigns institutional roles. Lesotho is also part of the SADC TIP Network. A national referral system and standard operating procedures of referral of victims of trafficking and care was adopted in 2018.
- (b) **Automated visa system:** Visa options are clearly outlined on the official [Lesotho E-Visa website](#). In addition, the Immigration and Citizenship Bill of 2018, aims to define multiple visa categories. The same Bill mandates the creation of Visa Issuance Centres in the Department of Immigration and Lesotho embassies.

### 6.2. Areas with potential for further development

- (a) **No integrated border management:** Despite efforts made by the establishment of Heads of Border Agencies, there is no single body tasked with integrated border control and safety, as responsibilities are split between government departments.
- (b) **Limited system for monitoring overstays:** The Immigration and Citizenship Bill of 2018, intends to regulate visa overstays. Immigration officers are expected to record the passports of those found to have overstayed their visas and to impose fines. Those found to have overstayed their visas more than twice will be subject to deportation. However, there is a limited system in place to monitor overstays.
- (c) **Limited data on TIP:** While Lesotho is part of the regional TIP data collection system, there are no regularly published reports of anti-trafficking activities in Lesotho. Legislation to tackle the smuggling of migrants needs to be strengthened.
- (d) **Limited reintegration support for vulnerable returned migrants:** There are limited programmes for attracting nationals who have migrated from the country or to facilitate their reintegration.

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