Migration Governance Snapshot: Republic of Kenya

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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)[1] 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 an 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 Republic of Kenya's (hereafter referred to as Kenya) migration governance structures, as well as the areas with potential for further development, as assessed by the MGI.

With research and analysis from

Key findings

1. Adherence to international standards and fulfilment of migrants' rights

1.1.   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)	Yes (1965)
United Nations Convention relating to the Status of Refugees, 1951	Yes (1966)
United Nations Convention relating to the Status of Stateless Persons, 1954	No
United Nations Convention on the Reduction of Statelessness, 1961	No
ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	Yes (1979)
United Nations Convention on the Rights of the Child, 1989	Yes (1990)
United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	No

1.2.   Migration Governance: examples of well-developed areas

There are a variety of work permit categories included in the Kenya Citizenship and Immigration Act that allow immigrants to work in Kenya. The "Class D" work permit, the broadest work permit category, is issued to immigrants once they have an offer for employment. While there are no explicit restrictions based on sector, activity or linguistic ability that prevent migrants from applying for the Class D work permit, employers must prove that no Kenyan citizen with the required qualifications is available for the same position. People with documented refugee status can receive a "Class M" work permit at no financial cost.

Immigrants can apply for permanent residency after seven years of legally living and working in Kenya. Applicants must reside in Kenya for the three years preceding the application and demonstrate skills, education and finances that will contribute to the country's overall development.

Immigrants who are permitted to study and/or work in the country, have access to public health services under the Kenya National Hospital Insurance fund. Access to government funded primary and secondary education is provided to all children in Kenya. In general, equal access does not extend to tertiary education; however, the fees associated with the "Pupil's Pass", which allows non-nationals to access to post-secondary education, is waived for citizens of Burundi, Rwanda, Tanzania and Uganda. Permanent residents of Kenya have access to social security that is based on their residence in the country, and not on their employment status. Basic health services for refugees are provided through health centres in official refugee camps, as well as through referral to public hospitals. The Office of the United Nations High Commissioner for Refugees's (UNHCR) Comprehensive Refugee Programme aimed to increase the enrolment of refugees in the national health system.

Kenya's Refugee Act (2006) and the Children's Act (2001) include provisions for family reunification for refugees, asylum seekers and unaccompanied minors.

1.3.   Areas with potential for further development

Immigrants have limited rights to civil participation in Kenya. Only Kenyan citizens aged 18 years and above who hold a Kenyan identification card or passport can register to vote at the county level.

There are some restrictions on the employment of immigrants in the public sector. According to the Kenya Public Service Commission's Human Resource Policies and Procedures Manual for the Public Service, non-

citizens can only be appointed to public-sector positions with contracts that do not exceed three years, and these contracts can only be renewed once.

There are no formal bilateral agreements to facilitate the transferability or portability of social security benefits to or from Kenya.

2. Formulates policy using evidence and whole of government approach

2.1. Migration Governance: examples of well-developed areas

The State Department of Immigration, Border Control and Citizen Services is responsible for Kenya's overall migration policy. The Government has also acted to enhance both horizontal and vertical policy coherence on migration, with the main example being the National Coordination Mechanism on Migration (NCM), a government-led inter-agency coordination platform. The NCM facilitates inter-agency coordination, collaboration and information-sharing on migration issues at the national level. The NCM also includes representatives of the Council of Governors, who are from local governments, and has an outreach programme to raise awareness around migration issues and how to mainstream them into development processes at the country level.

Kenya has a sound legal framework in place regarding migration, with the Kenya Citizenship and Immigration Act, which is implemented by the State Department of Immigration, Border Control and Citizen Services, and the Kenya Diaspora Policy, administered by the Ministry of Foreign Affairs. The Kenya Citizenship and Immigration Act was amended in 2014 in order to establish a Border Control and Operations Co-ordination Committee, which aims to enhance border management efficiency and inter-agency coordination.

2.2. Areas with potential for further development

Although the State Department of Immigration, Border Control and Citizen Services maintains a population database in Kenya, there is scope to further mainstream regular migration data collection through collaboration with Kenya's National Bureau of Statistics.

In 2017 the NCM drafted a Kenya National Migration Policy, which includes comprehensive guidelines for migration management that are in line with the UN Sustainable Development Goals; however, it is yet to be formally adopted by the government.

3. Engages with partners to address migration and related issues

3.1. Migration Governance: examples of well-developed areas

Kenya maintains strong partnerships and seeks cooperation on migration issues with other states through Regional Consultative Processes (RCPs). For instance, the East African Community (EAC) adopted the EAC Common Market Protocol, which came into force in 2010, and allows the free movement of EAC nationals across member states' borders. Kenya is also a member of the Northern Corridor Integration Programme (NCIP), which allows the use of identity cards for travel within the partner states of Kenya, Uganda and Rwanda, as well as the Common Market for Eastern and Southern Africa (COMESA), the Intergovernmental Authority on Development (IGAD). The National Coordination Mechanism (NCM) on Migration in Kenya is facilitated through the IGAD RCP on Migration.

Kenya has several bilateral agreements and Memorandums of Understanding (MoUs) regarding migration-related issues. For instance, Kenya and Germany signed two MoUs in 2017, one of which addresses skills development for Kenyan youth to meet job market requirements in Germany. Also in 2017, Kenya signed

bilateral labour agreements with the Kingdom of Saudi Arabia, Qatar and United Arab Emirates (UAE) on welfare and protection of migrant workers from Kenya.

The country is a member of the Global Forum on Migration and Development (GFMD) Steering Group, a member state of the International Organization for Migration, and was a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR) for October 2016–2017. Such efforts ensure that Kenya governs migration in accordance with agreed international principles and procedures.

Kenya formally engages civil society organizations in agenda-setting and the implementation of programmes on migration-related issues. It also engages the private sector through multiple forums, including through the NCM on Migration. The Ministry of Foreign Affairs manages engagement with the Kenyan diaspora through initiatives such as public–private partnerships, an [interactive web portal](#) for Kenyans abroad, and trainings for Kenyan Foreign Service officers on how to engage Kenyans abroad.

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

4.1. Migration Governance: examples of well-developed areas

Kenya monitors the effects of emigration on the labour market through the Ministry of Labour and Social Protection, which assesses the domestic labour supply in conjunction with external partners. Every quarter, a national labour assessment report is published, and the labour management information system portal is updated.

The Kenyan Department of Immigration Services issues various categories of work permits for different aspects of the labour force, including prospecting for minerals and mining, investing in agriculture and animal husbandry, investing in specific trades or businesses, and missionary work.

In 2016, the Fifth Diaspora Development Dialogue, organized by the Africa–Europe Diaspora Development Platform and Kenya's Ministry of Foreign Affairs, adopted the [Nairobi Action Plan on Remittances](#). The Plan includes calls to reduce the cost of sending remittances to and from Kenya, reform regulations, facilitate competition, promote interoperability, and stimulate innovation. The plan also endorses initiatives to provide technical cooperation and support to 10 African countries.

4.2. Areas with potential for further development

International students attending post-secondary education in Kenya can only work during their studies if they have contracts with specific companies or professional bodies. Furthermore, there are no government schemes to mainstream international students into the Kenyan workforce once they have graduated.

There is scope for Kenya to develop further mechanisms to protect the rights and interests of its nationals abroad. [Kenya's Diaspora Policy](#) calls for a strengthened regulatory framework for employment agencies, pre-departure training for Kenyan emigrant workers and students, awareness-raising for potential emigrants through travel advisories, and improved registration of Kenyans abroad through the country's diplomatic missions.

5. Effectively addresses the mobility dimensions of crises

5.1. Migration Governance: examples of well-developed areas

Kenya's National Disaster Management Unit has a disaster response strategy with provisions to address displacement in the case of disasters in the country. These provisions appear in the National Emergency Response Plan and Standard Operating Procedures (SOPs) 2014. The National Plan and SOPs are anchored in "Vision 2030", Kenya's medium-term national development strategy ("Medium Term Plans 1 and 3").

The Kenya National Adaptation Plan 2015–2030 outlines specific climate resilience strategies related to migration. The plan highlights land-use policies and outlines actions to integrate climate change scenarios into spatial planning, update land-use plans with climate scenarios, and build the capacity of land managers in climate change adaptation.

Kenya has contingency plans for managing large-scale migration in times of crisis. The Government has established the National Disaster Response Plan/Manual. Other stakeholders (for example, the International Committee of the Red Cross and Kenya's National Defence Forces) have well-developed standard operating procedures and operation manuals for use in times of crisis in the country.

Kenya does not discriminate in the provision of humanitarian assistance for any reason, including migration status. Such assistance is accessible to all and is provided for free.

5.2. Areas with potential for further development

Kenya's "Vision 2030" does not include concrete measures regarding situations of displacement.

Communication mechanisms to be used in times of crisis are limited and do not address specific vulnerabilities faced by migrants.

There are plans to improve existing mechanisms to facilitate the return of migrants to Kenya after a crisis, including provisions to protect their assets.

The Diaspora and Consular Affairs Directorate is in the process of developing a plan for evacuating Kenyans living abroad in times of crisis.

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

6.1. Migration Governance: examples of well-developed areas

Admission and visa eligibility criteria are clearly outlined by the Kenyan authorities on the Government's eVisa website. The country's visa application programme is fully online for non-referred visa categories, including single-entry visas, transit visas and courtesy visas. The Directorate of Immigration and Registration of Persons in Kenya is responsible for providing information on all permits and passes available to foreign nationals wishing to enter the country.

Kenya's Department of Immigration Services is responsible for controlling and regulating the entry and exit of all persons. It is also responsible for the removal of immigrants with irregular legal status in the country.

The Government has a "Child Protection Integrated Information System" that includes disaggregated data on the trafficking of children and plans are underway to expand the system to capture data on the trafficking of adults. There is also the National Plan of Action Strategic Framework that provides a multi-sectoral approach to implement programmes and activities to counter the trafficking in persons in place, as well as a National

Referral Mechanism to assist victims of trafficking. These documents provide standard operating procedures for identification and referral, protection and assistance, return and reintegration.

6.2. Areas with potential for further development

Efforts are being made to establish formal government programmes that focus on facilitating the reintegration of Kenyan emigrants returning to the country. The National Diaspora Policy calls for the implementation of a framework for the transferability and portability of social security benefits from other countries and programmes to reintegrate returnees, including activities such as debriefing and counselling.

The country's efforts to combat human trafficking could be strengthened. Kenya regularly issues state reports about its counter-trafficking activities, as required under the Counter-trafficking in Persons Act, and also conducts nation-wide anti-trafficking awareness campaigns. However, there is scope to scale-up and improve on these efforts. Data should always distinguish between smuggling and trafficking, and information-sharing between national, regional and international stakeholders to combat trafficking could also be improved.

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