



# An Exploratory Study on Labour Recruitment and Migrant Worker Protection Mechanisms in West Africa:

## The Case of Côte d'Ivoire, the Gambia, Ghana, Nigeria and Senegal

This exploratory study has been produced as part of the International Organization for Migration's (IOM) "Promoting Responsible Recruitment from West Africa to the Gulf (GCC) Region" project funded by the Migration Resource Allocation Committee (MIRAC).<sup>\*</sup> It has been managed by the Labour Migration and Human Development (LHD) Division at the Regional Office for West and Central Africa in Dakar and the IOM country mission in Abidjan. The preliminary research for this report, conducted from August to December 2018, was funded by the FMM Project (Support Free Movement of Persons and Migration in West Africa). The contents of this study are the sole responsibility of the authors and can in no way be taken to reflect the views of IOM. Additionally, IOM does not endorse any of the private recruitment agencies described in this study.

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# LIST OF ABBREVIATIONS/ACRONYMS

AEJ	Youth Employment Agency (Agence Emploi Jeunes)
ANPEJ	National Youth Employment Agency (Agence Nationale pour la Promotion d'Emploi des Jeunes)
ARLPAN	Association of Recruiters License Placement Agents of Nigeria
BAOS	Bureaux d'Accueil, d'Orientation et de Suivi
CSO Network	Civil Society Network on Migration and Development
CLO	Chief Labour Officer
CNLTP	National Anti-Trafficking Agency (Cellule Nationale de Lutte contre la Traite)
CNTS-FS	Confédération Nationale de Travailleurs au Sénégal
DfID	Department for International Development
DGIE	Directorate of Ivoirians Abroad (Direction des Ivoiriens de l'Exterieur)
DGASE	General Directorate for the Assistance of Senegalese Abroad (Direction Générale d'Appui au Sénégalais de l'Extérieur)
DSPE	Directorate of Strategies and Employment Programs
DIADEM	Diaspora Développement Education Migration
DOL/DL	Department of Labour
DRT	Head Office for Labour is the Directorate of Labor Regulation
DST	Department of National Surveillance (Direction de la Surveillance du Territoire)
DSWU	Domestic Services Workers Union
DTPS	Department of Labour and Social Protection (La Direction du Travail et de la Protection Sociale)
FES	Friedrich Ebert Stiftung
FESACI	Fédération des Syndicats Autonomes de Côte d'Ivoire
FMLE	Federal Ministry of Labour and Employment
GBoS	Gambian Bureau of Statistics
GCCI	Gambia Chambers of Commerce and Industry
GHAPEA	Ghana Association of Private Employment Agencies
GIS	Ghana Immigration Service
GLC	The Gambia Labour Congress
GLMIS	Ghana Labour Market Information System
GNTUC	Gambia National Trade Union Congress
HuCaPAN	Human Capital Providers Association of Nigeria
ICMC	International Catholic Migration Commission
ICMPD	International Centre for Migration Policy Development
ILMD	International Labour Migration Desk
ILO	International Labour Organization
ITUC	International Trade Union Confederation
IMSCM	Inter-Ministerial Steering Committee on Migration
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
KAFA	NGO (Enough Violence and Exploitation)
MADE	The Migration and Development Civil Society Network
MAE	Ministry of Foreign Affairs (Ministère des Affaires Etrangères)

MELR	The Ministry of Employment and Labour Relations
MOFA	The Ministry of Foreign Affairs
MOI	Ministry of the Interior
MOTIE	Ministry of Trade, Industry, Regional Integration and Employment
MRC	Migrant Resource Centre
NAATIP	National Agency against Trafficking in Persons
NANNM	National Association of Nigeria Nurses and Midwives
NAPTIP	National Agency for the Prohibition of Traffic in Persons and Other Related Matters
NBS	National Bureau of Statistics
NECA	Nigeria Employers' Consultative Association
NELEX	National Electronic Labour Exchange
NCFRMI	National Commission for Refugees, Migrants and Internally Displaced Persons
NDPC	National Development Planning Commission
NIS	Nigeria Immigration Service
NLC	Nigeria Labour Congress
NPopC	National Population Commission
OVP	Office of the Vice President
PDOS	Pre-Departure Orientation Seminar
PEC	Public Employment Centre
PEA	Private Employment and/or Recruitment Agencies
PMO	Public Management Office
PSC	Public Service Commission
TUC	Trades Union Congress of Ghana
UGTCI	Union Générale des Travailleurs de Côte d'Ivoire
UNDTs	Union Démocratique des Travailleurs du Sénégal
UNIWA	Union of Informal Workers Association

# DEFINITION OF KEY TERMS

**Ethical recruitment:** Recruitment of workers in a lawful, fair and transparent manner that respects their dignity and human rights. The International Recruitment Integrity System (IRIS) Standard sets a benchmark for ethical recruitment, corresponding to seven key principles, including: Respect for Laws Fundamental Principles and Rights at Work; Respect for Ethical and Professional Conduct; Prohibition of Recruitment Fees to Jobseekers; Respect for Freedom of Movement; Respect for Transparency of Terms and Conditions of Employment; Respect for Confidentiality and Data Protection and Respect for Access to Remedy ([IRIS Standard](#)).

**Formal PEAs:** This term is used to refer to private recruitment and employment agencies who are duly registered and licensed to function legally as recruitment entities or businesses in the country. They can be agencies or individual agents.

**Informal PEAs:** This term is used to refer to private recruitment and employment agencies which are not registered nor licensed to function legally as recruitment entities or businesses in the country. They can be agencies or individual agents.

**Informal recruitment:** This term is used in the paper to refer to all recruitment which is facilitated by informal private recruitment agencies, which are not registered nor licensed as private recruitment agencies nor businesses in the country.

**PEAs:** This acronym is used to refer to Private Recruitment and Employment agencies.

**Trafficking in persons:** This is defined as, “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation” (Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3). While informal recruitment does not equate to trafficking in persons, informal recruitment can in some cases be accompanied by unethical recruitment practices which may in some circumstances lead to instances of trafficking in persons.<sup>1</sup>

**Unethical recruitment:** Contrary to the above, unethical recruitment (whether lawful or unlawful) can be unjust, non-transparent and fail to respect the dignity and human rights of workers. It can also lead to other abuses, such as trafficking in persons, migrant smuggling, and other forms of exploitation.

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<sup>1</sup> Note: Within this study, the term “human trafficking” is used as an interchangeable substitute for “trafficking in persons” in some sections in order to correspond to the official names of certain entities.





# CONTENTS

List of Abbreviations/acronyms.....	iii
Definition of Key Terms.....	v
<b>1. Rationale for the Study.....</b>	<b>1</b>
1.1. Objectives of the Exploratory Study .....	4
1.2. Methodology.....	5
1.3. Limitations .....	5
<b>2. Case study analysis .....</b>	<b>7</b>
2.1. Côte d'Ivoire.....	7
1.1.1. Situational Analysis .....	7
1.1.2. Labour Migration Management at the National Level.....	10
1.1.3. Non-State Actors and Labour Migration.....	18
1.1.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations.....	19
2.2. The Gambia.....	22
2.2.1. Situational Analysis .....	23
2.2.2. Labour Migration Management at the National Level.....	25
2.2.3. Non-State Actors and Labour Migration.....	31
2.2.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations.....	31
2.3. Ghana.....	33
2.3.1. Situational Analysis .....	33
2.3.2. Labour Migration Management at the National Level.....	35
2.3.3. Non-State Actors and Labour Migration.....	44
2.3.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations .....	45
2.4. Nigeria.....	46
2.4.1. Situational Analysis .....	47
2.4.2. Labour Migration Management at the National Level.....	49
2.4.3. Non-State Actors and Labour Migration.....	60
2.4.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations.....	63
2.5. Senegal.....	64
2.5.1. Situational Analysis.....	65
2.5.2. Labour Migration Management at the National Level.....	68
2.5.3. Non-State Actors and Labour Migration.....	75
2.5.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations.....	76
<b>3. Conclusions.....</b>	<b>79</b>
<b>References .....</b>	<b>89</b>



# 1. RATIONALE FOR THE STUDY

Findings from recent studies conducted by various entities including the International Organization for Migration (IOM), International Labour Organization (ILO), International Catholic Migration Commission (ICMC) and the African Regional Organisation of the International Trade Union Confederation (ITUC-Africa) show that young migrants in West Africa increasingly fall prey to exploitative recruiters, attracted by false promises of employment, high wages and decent working and living conditions. Though migrants are asked to pay large sums of money to access these promised jobs, often no jobs await them at their destination or differ completely from those initially promised, leaving them in situations of extreme vulnerability. Conversely, private sector companies often recruit workers through intermediaries in countries of origin often without being aware of how transparently and under what conditions recruitment is conducted and how this can negatively impact workers.

West Africa remains one of the regions least explored in terms of research and knowledge on recruitment practices and their linkages to trafficking in persons and other forms of exploitation and abuse. Public employment systems for the placement of workers nationally and internally vary significantly amongst countries within the region; to date a few studies have approached the topic, yet a comprehensive review of the recruitment sector has not yet been conducted, both regionally and at the national level. It is important to have a better understanding of what public and private employment services exist, how they operate and whether their role already includes, or could be expanded to include, both national and international recruitment.

The International Organization for Migration (IOM) seeks to promote ethical recruitment and protect migrant workers in West Africa; the organization is therefore committed to supporting governments to develop and strengthen effective mechanisms and tools that prevent and address exploitation by unscrupulous labour recruiters. This commitment is outlined in the Global Compact for Safe, Orderly and Regular Migration (adopted by the UN General Assembly on 19 December 2018) through its Objective 6: “Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work”. Furthermore, IOM promotes the International Recruitment Integrity System (IRIS) as its flagship initiative on ethical recruitment. IRIS defines and sets a benchmark for ethical recruitment ([the IRIS Standard](#)), and establishes a voluntary certification scheme for ethical labour recruiters, as well as a compliance and monitoring mechanism.

The Standards established in IRIS defines seven core principles:

- Respect for Laws, Fundamental Principles, and Rights at Work;
- Respect for Ethical and Professional Conduct;
- Prohibition of Recruitment Fees to Jobseekers;
- Respect for Freedom of Movement;
- Respect for Transparency of Terms and Conditions of Employment;
- Respect for Confidentiality and Data Protection;
- Respect for Access to Remedy (IOM, 2019a).

IRIS has undergone significant pilot testing and constitutes an institutionalized mechanism that can strongly support Governments in their efforts to monitor and promote ethical recruitment practices within their respective countries. With the expansion of IRIS to West African countries, IOM could exponentially increase its ability to support the private sector while protecting migrant workers from recruitment-related abuses. However, in order to appropriately implement IRIS in

the West African context, it is required that background analysis, mapping and assessments be carried out on a country-by-country basis. Such studies should aim to identify existing realities, best practices and challenges in the recruitment industry and thus help IOM develop a clear strategy and roadmap for stakeholder engagement to promote ethical recruitment and pave the way for IRIS implementation in the region.

The exploratory study focuses on five country case studies: Côte d'Ivoire, the Gambia, Ghana, Nigeria and Senegal (hereafter referred to as case study countries). The countries were chosen for a number of key reasons:

### 1) Similar legal frameworks and ILO ratification status

Most of the countries selected are similar in that they have not ratified certain Conventions established by the International Labour Organization, which are key for promoting ethical recruitment and protecting the rights of migrant workers. These include the Private Employment Agencies Convention 1997 (No.181), the Domestic Workers Convention (No.189), Migrant Workers Supplementary Provisions Convention 1975 (No.143) and the Migration for Employment revised Convention (No.197) (IOM, 2018a). As these Conventions have not yet been ratified, the national legislation in these countries is less likely to have sufficient measures for promoting ethical recruitment and migrant worker protection.

### 2) Statistics related to increased recruitment cited in relevant studies

IOM recently conducted studies in Ghana and the Gambia on recruitment and the labour migration of Ghanaian and Gambian nationals abroad, primarily of women migrating for domestic work but also of men migrating for manual labour in the Gulf region countries. In Senegal, two studies of a similar nature have been conducted. The Migration and Development Civil Society (MADE) Network along with the International Catholic Migration Commission, conducted the study "Recruitment Practices of Senegalese Migrant Workers, Working Conditions Abroad and Public Policies against Trafficking of Migrants in Senegal". Secondly, IOM's ACP-EU Project (Dialogue on Migration and Development between African, Caribbean and Pacific and European countries) in coordination with Senegal's Anti-Trafficking Unit (Cellule Nationale de Lutte Contre la Traite), conducted a study on the trafficking in persons of Senegalese domestic workers to the Gulf region. In addition, the Africa Regional Organisation of the International Trade Union Confederation (ITUC-Africa) conducted a study entitled "Africa Labour Migration to the GCC States: The Case of Ghana, Kenya, Nigeria and Uganda" in 2018. The study highlights increased labour migration trends from Nigeria and Ghana to the GCC region, underlining existing gaps in legislation and regulation of private recruitment from these countries as well as links to trafficking in persons and smuggling of migrants to this region in particular. In Côte d'Ivoire, IOM gathered testimonies from returning migrants through questionnaires and focus groups in the framework of research undertaken on the phenomenon of the feminization of migration in Côte d'Ivoire through the programme, "Safety, support and solutions business case in the Central Mediterranean Route" financed by DFID. These point to a recurrent trend of abuse and violence suffered along irregular migration routes, particularly from West Africa to North Africa and the GCC States. Furthermore, survey results showed that irregular migration patterns are often fueled by unethical recruitment; the search for employment opportunities prompting migrants to turn to what they believe are reputable recruiters who send them to work abroad where they often find themselves in irregular situations and subjected to instances of trafficking in persons.

### 3) Alignment with and expansion upon former initiatives undertaken in the West African region

As demonstrated by the above trends, informal recruitment practices and the consequential heightened risk of exploitation and abuse at destination, trafficking in persons, and migrant smuggling are not isolated issues and in fact affect the region in its entirety. To tackle these increasingly prominent issues within the region, several initiatives have been undertaken, such as the Migration Dialogue for West Africa (MIDWA). This platform allows ECOWAS members to address various thematic issues that concern migration in West Africa. In the framework of the MIDWA, several thematic working groups were created, one of which revolves around the theme of labour migration; initial discussions have taken place within this group regarding labour recruitment processes and the various challenges found there within.

IOM has been supporting MIDWA through the Free Movement and Migration (FMM) West Africa project, funded by ECOWAS and the European Union, directly implemented by IOM in cooperation with the ILO and the International Centre for Migration Policy Development (ICMPD). The FMM project has a significant focus on both counter-trafficking and labour migration, both at a regional and national levels. The FMM was a driving element in the development of ECOWAS' recent Plan of Action on Combatting Trafficking in Persons for 2016–2020 and strengthened the capacity of the ECOWAS Trafficking in Persons (TIP) Unit regarding monitoring and evaluation through the development of a new reporting template for the Unit, in accordance with the aforementioned Plan of Action.

To date, much remains to be done in West Africa to improve knowledge regarding recruitment practices and their linkages to trafficking in persons, as well as strategies to address issues and risks associated with poor practices. However, the findings of this study have the potential to serve as a catalyst through future IOM initiatives, for increased evidence-based action regarding the domestic as well as international recruitment element that precedes instances of exploitation and abuse, as well as migrant smuggling.

### 4) Regional economic, demographic and policy-related factors

In choosing these countries, the objective was to provide a perspective on labour recruitment practices originating from the most substantial economic hubs and diverse economic landscapes of both francophone and anglophone countries within the West African region. As the working population, and therefore the respective labour supply source, within these countries continues to increase, the labour recruitment of West African workers in-country as well as abroad will not only impact workers themselves, but also national and regional economies. Ensuring that the recruitment of this growing population remains legal and ethical however, requires preliminary research to be undertaken in order to understand the current mechanisms in place for labour recruitment, both formal and informal, as well as current and potential labour migration patterns in and from West Africa.

Furthermore, as the risks posed by informal recruitment, trafficking in persons and other forms of exploitation are becoming more regionally encompassing, the gaps related to labour migration management and strategies to make progress in this field are known and starting to be addressed at the regional level. All of the case study countries in this study are member States of ECOWAS and as such ECOWAS legislation concerning labour migration and employment are applicable and thereby key elements to take into consideration. Through its numerous legislative instruments, ECOWAS has shown increasing attention being given to issues concerning labour migration within the region. These instruments include:

- **ECOWAS Labour and Employment Policy (2009):** this policy identifies several regional shortcomings regarding labour policy, including the lack of ratification of ILO Conventions; lack of relevant data on labour and employment in the region; the need for enhanced

labour-related legislation within ECOWAS member States as well as the harmonization of these legislative instruments across the region (ILO, 2019a).

- **ECOWAS Strategic Action Plan for Labour Policy (2009)**: this plan is a complement to the aforementioned policy and focus on five primary areas of intervention for ECOWAS – the promotion of international standards, decent work, social well-being for all, social dialogue and tripartism and regional integration (ILO, 2019a).
- **ECOWAS Action Plan for Youth Employment 2013–2018**: this plan notably promotes intraregional mobility as well as data collection (namely regarding the situation of young migrant workers), the reinforcement of labour market information systems and education to enhance young workers' skills and therefore employability (ILO, 2019a).

It is equally important however to explore these concerns on the national level. The exploratory study thus aims to understand the common barriers that countries face regarding labour recruitment and labour migration; distinguish good practices that can be replicated and scaled; and foster enhanced communication and coordination between countries in the aim that this will reinforce cooperation at the regional level.

## 1.1. Objectives of the Exploratory Study

The overall objective of the exploratory study is to provide IOM as well as its Member States and relevant stakeholders with a solid understanding of international labour recruitment modalities in the region to allow for informed and authoritative discussion with governments and to suggest ways forward. The study specifically focuses on describing and analysing the following in Côte d'Ivoire, the Gambia, Ghana, Nigeria and Senegal:

- Public employment and labour recruitment systems (national and international);
- Private employment and labour recruitment systems (national and international);
- Government regulation, monitoring and oversight of national and international labour recruitment and the activities of private recruitment agencies;
- Bilateral Labour Agreements (BLAs) and Memoranda of Understanding (MoUs) with other countries;<sup>2</sup>
- Situational analysis of main destination areas and countries for migrants using both public and private labour recruitment services at the national and international level (for example, trends in employment sectors, age and gender, recruitment method, existence of abuses within the recruitment process);
- Analysis of relevant stakeholders involved in dialogue and engagement on ethical labour recruitment and migrant worker rights in the country;
- Existence of pre-departure orientation training given to migrant workers;
- Relevant regional consultative processes and/or other multilateral mechanisms related to international labour recruitment.

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<sup>2</sup> To specify the objective "Bilateral labour agreements and memorandums of understanding with other countries", it is important to differentiate the two terms. While an MoU is an understanding and intention for cooperation between countries and a prerequisite for a BLA, it is not legally binding. A BLA, on the other hand, is a legally binding document between two parties which have agreed to work together for a common objective, and as such, is enforceable in a court of law. An MoU does not always lead to a BLA.

By uncovering existing challenges, the results of the mapping and research will also provide IOM Member States and relevant stakeholders with concrete ideas on how to advance in the field of ethical labour recruitment and worker protection. These could include a range of interventions pertaining to ethical labour recruitment, such as strengthening legal and regulatory frameworks, policy advocacy and engagement of public agencies (e.g. licensing authorities, labour administration, training for public employment services and so forth) and transnational cooperation between regulators. This might also include migrant-facing outreach to enhance rights-awareness or protections addressing unethical and informal labour recruitment practices. The study also seeks to identify specific licensed private recruitment agencies, which could be potential partners for IOM's IRIS capacity-building programme and certification for labour recruiters during its initial rollout phase in West Africa.

## 1.2. Methodology

Research for the study took place during two stages, the first from August to December 2018 followed by the second stage from June to September 2019. Secondary data was collected through contacts at IOM Missions in the selected countries and from online resources, including IOM migration profiles and other reports, as well as legal documents and studies by other international organizations and government agencies. Primary data was collected through interviews and consultations with primary stakeholders identified in each country. Research questions used during interviews varied based on the informant and country.

In all five countries, interviews were conducted with primary stakeholders in the government, including the Ministry of Labour or Employment (or other relevant body in charge of public employment as well as of regulating private recruitment), the Ministry of Foreign Affairs, the body charged with coordinating counter-trafficking efforts as well as other relevant Ministries. In the private sector, key informants included private recruitment agencies based locally in the selected countries, as well as international and regional private recruitment agencies that operate continentally and/or worldwide but have affiliate offices in one or more of the case study countries. In addition, in the cases that applied, national associations of private recruiters as well as employers' associations were interrogated. Lastly, in the civil society sector, key informants included trade union bodies and local non-governmental organizations involved in migration-related issues (including labour migration).

## 1.3. Limitations

Available data on migration and labour recruitment in the region is limited. Migration-related data is collected by some government agencies but not on a strictly regular basis. In the Gambia and Senegal for example, the most recent national censuses were conducted in 2013. In addition, public and private employment and recruitment agencies have only collected a limited amount of data on destination countries and sectors of employment of recruited workers. Many also do not keep track of issues and conflicts that arise between migrant workers and employers as well as human rights abuses identified during the labour recruitment process.

For the study, only a few interviews were conducted with returned migrants themselves. Interviews were also not conducted with informal recruitment agencies, which constitute the majority of agencies in the countries targeted under the exploratory study. The sensitive and criminal nature of the issue, as well as its informality, made it difficult to identify informal agencies and individual agents and recruiters. In the case that such agencies were identified by other researchers or government agencies, they did not respond to interview requests.





## 2. CASE STUDY ANALYSIS

### 2.1. Côte d'Ivoire

Although a number of official mechanisms have been established to undertake formal labour recruitment in Côte d'Ivoire, informal recruitment practices remain dominant across the country. Furthermore, the mechanisms in place for formal recruitment tend to focus uniquely on employment opportunities within Côte d'Ivoire itself, therefore leaving a gap for Ivoirians seeking employment outside of the country. This gap has led to the propagation of informal employment agencies and means that such agencies go unregulated and are difficult to detect, posing a problem for both the Government as well as jobseekers who may be subjected to trafficking in persons and exploitative practices associated with informal recruitment.

#### 1.1.1. Situational Analysis

##### *In-migration to Côte d'Ivoire*

Côte d'Ivoire has historically been characterized as a destination country within the West Africa region, primarily due to economic opportunities as well as family reunification. As of 2019, approximately 2.5 million international migrants were present in Côte d'Ivoire, constituting thus nearly 10 per cent of the total country population (UN DESA, 2019). Côte d'Ivoire is the West African country with the largest number of international migrants present on its territory (UN DESA, 2019). Côte d'Ivoire's 2014 population census additionally states that 24.2 per cent of the total population located within the country is of non-Ivoirian nationality (INS, 2014). Main countries of origin include: Burkina Faso (53.7%), Mali (20.5%), Guinea (6.5%) and Ghana (4.4%) (UN DESA, 2019).

The Ivoirian government has traditionally promoted in-migration and recruited foreigners to the country to work in a variety of sectors, including agropastoral, mining, industry and infrastructure. The current profile of migrant workers employed in these various sectors in Côte d'Ivoire is as follows: entrepreneurs or independent workers (54.1%); caregivers (19.8%); public employees (12.2%); contract workers (7.3%); apprentices (1.8%); and employees of a local cooperative (1.1%) (IOM, 2017a).

The rights of foreign workers in Côte d'Ivoire have been of central importance to the Government since the 1960's (IOM, 2017a), coinciding with the fact that migratory conventions to bring organized labour into the country have existed since the 1960's (IOM, 2017a). The majority of foreign nationals present in Côte d'Ivoire are employed in low-skilled jobs (IOM and ICMPD 2015); recruitment of high skilled workers into the country was however particularly high during the 1980's but has decreased considerably (IOM and ICMPD 2015). In-migration also decreased in general following the violence associated with the political and civil unrest of the 2000's and 2010–2011; Côte d'Ivoire however currently remains an important destination country for ECOWAS citizens.

Recruitment of foreign migrant workers to Côte d'Ivoire mainly occurs via informal channels, including social networks, and primarily targets citizens from neighbouring ECOWAS countries who are able to utilize the 90-day visa-free policy (Gouesse, 2019). These foreign workers tend to be predominantly present in rural areas, namely Sud-Comoé, Bas-Sassandra, Moyen-Cavally, Moyen-Comoé and Haut-Sassandra (MGSOG, 2017). These migrant workers often find themselves in a vulnerable situation as they often do not perceive it as necessary to

register in Côte d'Ivoire, neither with the consular authorities of their country of origin nor with the Ivorian authorities, beyond their initial authorized visa-free stay of ninety days.<sup>3</sup> This often leads to a lack of documentation. In accordance with Ivorian legislation, nationality is transmitted by birth only and many individuals born to un-registered migrant parents in Côte d'Ivoire end up with neither Ivorian nor foreign documentation and therefore may eventually face a legal gap. Furthermore, expulsions of these populations working and living in classified forests/national parks, social tensions with local populations and the risk of trafficking in persons are other problems to which these foreign nationals might be exposed.

Within Côte d'Ivoire, children constitute the majority of victims of trafficking identified; however, instances of adult trafficking may be underreported as there remains a stronger focus within the country on combating child trafficking (US Department of State, 2019). Trafficking victims who find themselves in Côte d'Ivoire, comprised of both Ivorian nationals and foreigners, face different specific risks in terms of trafficking according to their age and gender: women and girls are at risk of forced labour in the service sector as well as sex trafficking; boys, and to a lesser extent men, are at risk of forced labour in both agricultural (particularly in cocoa production) and service industries, as well as mining, carpentry, construction and begging. Apart from Ivorians, the most common trafficking victims in Côte d'Ivoire come from other West African States. It is worth mentioning the growing importance of the corridor Lagos-Abidjan; girls (often underage) are recruited in Nigeria with false promises of well-paid jobs and then find themselves working as waitresses and/or prostitutes in Abidjan (IOM, 2019c).

#### *Out-migration from Côte d'Ivoire*

In terms of regular migration, the Ivorian diaspora is composed of approximately 1.24 million individuals around the world, a figure equivalent to approximately 5.4 per cent of the total Ivorian population (République de Côte d'Ivoire, 2015). Although out-migration is noticeably less significant in numbers when compared to those of in-migration to Côte d'Ivoire, out-migration rates have fairly recently begun to increase due to unemployment, relative deprivation, and political crises faced in the early and mid-2000's (Yeo, 2019).

Côte d'Ivoire's work force is relatively young. Persons aged between 14 to 35 years old constitute 63.0 per cent of the total work force (République de Côte d'Ivoire, 2016). The quest for employment and economic opportunities constitutes a major push factor for outmigration (IOM, 2018b) with principal destination countries including: Burkina Faso (63.6%), France (10.6%), Liberia (4.82%), Ghana (3.57%), the United States (3.06%), Italy (3.01%), and Mali (2.36%) (MGSOG, 2017). The main employment sectors for Ivorians abroad are comprised of manufacturing, distribution, services, hotel industry and agriculture (IOM, 2017a). Flows are mixed in terms of educational background of those who emigrate, comprised of both lower-educated (47.6%) and higher educated persons (30.7%) (IOM and ICMPD, 2015).

In recent years, irregular migration from Côte d'Ivoire to Europe, as well as to North Africa and the Gulf countries to a lesser extent, has seen a significant increase. Since 2016, Ivorian migrants have been in the top ten nationalities of migrants to arrive in Italy (approximately 23,000 arrivals in the period between January 2016 and June 2019) while simultaneously representing one of the top five sub-Saharan African nationalities to arrive in Italy (IOM, 2018c, 2019b). This trend has recently

<sup>3</sup> The Protocol AP.1/5/79 Relating to Free Movement of Persons, Residence and Establishment, elaborated by ECOWAS in 1979, stipulates that migrants who are nationals of an ECOWAS member state may travel visa-free to a different ECOWAS member state and do not require a visa for a stay of maximum 90 days; beyond this 90-day period, a visa must be applied for with the appropriate authorities in order for this stay to be extended, as per Article 3, Paragraph 2 of the Free Movement protocol: "Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if after such entry that citizen has cause to stay for more than ninety (90) days."

evolved as increasing numbers of Ivoirians partake in irregular migration to Spain, with Ivoirians being one of the top five nationalities to arrive irregularly in Spain in both 2018 (11% of all new arrivals) and January – June 2019 (8% of all new arrivals) (IOM, 2019b). Smuggling and trafficking in persons networks, rather than recruitment agencies, operating in the Sahara Desert as well as on the Mediterranean Sea serve as a primary aide for irregular migration to Europe. These networks are seemingly becoming more prominent in Côte d'Ivoire itself, demonstrated by the discovery and dissolution of an Ivoirian trafficking network based in Daloa during 2018–2019 that provided Ivoirian minors with fake documents and facilitated their journey to France via Libya and Italy (US Department of State, 2019).

North African countries (notably Morocco, Tunisia and Algeria) are also increasingly becoming destination countries for Ivoirian migrants. For Ivoirian nationals, no visa is required to enter Tunisia or Morocco, thus allowing for a 90-day visa free stay in each country. This specific visa regime makes Tunisia and Morocco attractive destinations for labour migrants from Côte d'Ivoire; however, if the stay is not regularized after this 90-day period, hefty fines are incurred by migrants and they may be rendered especially vulnerable to exploitation out of fear of being denounced to authorities. Case in point, Ivoirian migrants represent 80 per cent of all victims of trafficking identified by IOM Tunisia.

As Ivoirian nationals are often recruited to work abroad via informal channels, normally through social media or by personal contacts, they are often put at risk of trafficking in persons and sexual exploitation. Women and girls are most often recruited to work in the Middle East and Europe but find themselves subjected to forced labour in Europe, North Africa, and Gulf countries, primarily Saudi Arabia, Morocco, Lebanon and Tunisia (US Department of State, 2019). In this case, women and girls are often forced to work without salary upon arrival in order to reimburse their journey, which is often paid for by the future employer to the traffickers (IOM, 2019c). They thus work in deplorable conditions without pay for several months; additionally, upon arrival their identity documents are confiscated, therefore preventing them from leaving. Female Ivoirian trafficking victims have also been identified, albeit to a lesser extent, in Iraq, Israel, Cyprus and France (US Department of State, 2019).

Ivoirian men and boys are equally recruited through informal means while being promised either well-paying employment or the opportunity to be a football player. Male Ivoirian migrants recruited by these means are predominantly submitted to forced labour in North Africa, including Morocco, Tunisia, Algeria and Libya. Traffickers exploit men and boys in forced labour on farms in Tunisia, often promising the men well-paying jobs and the boys the opportunity to play soccer. Similar to the case of women, migrants' identity documents are typically confiscated upon arrival by traffickers until they can reimburse and/or pay for the next leg of their journey (for those trying to reach Europe via the irregular migration route) (US Department of State, 2019).

### *Labour recruitment: Identified Trends and Issues*

When compared to other countries in the West African region, the recruitment of Ivoirians, both through formal and informal means, to work outside of Côte d'Ivoire itself and outside of the African continent in general is a less apparent trend. There are currently no public recruitment/employment systems for jobs located outside of Côte d'Ivoire while simultaneously, only around 100 licensed PEAs are certified to recruit, primarily on the national level; most PEAs operating within the country are informal.

In Côte d'Ivoire, informal labour recruitment takes significant precedence over formal recruitment means. According to a regional survey conducted by the National Statistical Institute (Institut National de la Statistique) in 2017, only 5 per cent of respondents in Côte d'Ivoire stated that they found their current job by using services of private recruitment agencies, while only 3 per cent of respondents were recruited directly by employers. However, a large majority (44.5%) of Ivoirian respondents found their job informally via personal connections and social

networks (Gnalega, 2019). With regards to regular employment outside of Côte d'Ivoire, many large corporations such as Bouygues recruit Ivoirian diaspora members in France for instance, and these workers may in time be transferred to positions at the same company but in Abidjan; the recruitment of Ivoirian diaspora back to Côte d'Ivoire is becoming an emerging trend (Konate, 2019).

Despite these few examples of formal labour recruitment, most recruitment in Côte d'Ivoire occurs informally, predominantly through social or family networks rather than through private or public employment/recruitment services (Yeo, 2019). A recent government investigation of Ivoirian job portals sought to identify informal PEAs. This investigation estimated that over 200 informal agencies currently function in Côte d'Ivoire at the country level. According to most respondents, most labour recruitment occurs informally, and thus the large majority of employment in Côte d'Ivoire remains informal and unregulated (Konate, 2019).

An increase has been identified in the number of Ivoirian workers recruited informally for work in the Gulf region, particularly to Kuwait, Saudi Arabia and the United Arab Emirates (Konate, 2019). Although available information remains limited on this developing trend, recruitment is known to occur through informal agents, most common being the recruitment of women and girls for domestic work in Kuwait (Konate, 2019). There is currently a growing awareness of the Ivoirian government regarding the abuse and exploitation faced by women in the Gulf countries. This attention has led to a mechanism being put in place at the airport in Abidjan to conduct in-depth questioning of persons suspected of migrating to the Gulf without official work visas and contracts or other documentation to prove they had secured employment abroad; this has however not been overly effective in identifying nor stopping migrants from reaching their intended destination (Konate, 2019). Nevertheless, according to the Direction de la Surveillance du Territoire (DST), despite the lack of data, it is apparent that migration to the Gulf has recently seemed to decline as awareness of its risks have increased and as such the number of agencies and agents facilitating such labour recruitment to the region has also decreased (Fofana, 2019). At the same time, it is also apparent that alongside these informal means, the formal recruitment of highly skilled professionals to the Gulf (for example, engineers) occurs simultaneously (Yeo, 2019).

Major obstacles for formal labour recruitment include the lack of regulations on international labour recruitment, the lack of regular labour migration pathways and an articulated national migration policy. These impediments allow for much of labour recruitment and labour migration to occur through informal channels, thus not being registered by the Government and increasing the chance that migrants will not be protected abroad (Yeo, 2019). Côte d'Ivoire is considered simultaneously as a source, transit and destination country in terms of trafficking in persons. Data collected from returning migrants by IOM Côte d'Ivoire and stakeholder consultations confirm indeed the strong link between informal recruitment, trafficking in persons and exploitation within Côte d'Ivoire and of Ivoirians abroad. National, regional and transnational trafficking networks that bring both foreign nationals into Côte d'Ivoire and Ivoirians to foreign countries involve both Ivoirians, who are often even distant relatives of the victims, and foreign nationals. These networks are typically well-organized and discreet, thus constituting a major obstacle for law enforcement officials. Data is lacking regarding how these networks operate but from testimonies gathered from returning migrants in Côte d'Ivoire, informal recruitment is often effectuated via social media or through more trusted community organizations, such as religious institutions, where traffickers can be discretely present.

### 2.1.2. Labour Migration Management at the National Level

#### *Roles and Responsibilities of Government Offices*

Migration management in Côte d'Ivoire is undertaken by various ministries. Those directly in charge of migration management are the Ministry of Security and Civil Protection, the Ministry of

Territorial Administration and Decentralization, the Ministry of Foreign Affairs and the Ministry of Justice. With regards to a national migration policy, this does not yet exist in Côte d'Ivoire, nor does a labour migration policy. However, a migration policy is in the process of being drafted but it is likely that this policy will not be validated until after the 2020 presidential elections as its content may be subject to change following the post-electoral political landscape (Konate, 2019).

The **Ministry of Employment and Social Protection** (Ministère de l'Emploi et de la Protection Sociale) and its wide array of internal structures are directly responsible for several main components related to job creation, the reduction of unemployment and the reduction of social exclusion in Côte d'Ivoire, such as the development and monitoring of the National Employment Policy as well as the promotion and monitoring of the implementation of programmes for job creation and socio-professional integration of vulnerable people (République de Côte d'Ivoire, 2019a). The Head Office for Labour (Direction Générale du Travail) within the Ministry is specifically responsible for the design of labor standards.

Within the Head Office for Labor (Direction Générale du Travail), labour officers are also in charge of monitoring and regulating PEAs and ensuring their compliance with labour law (pre-evaluation of PEAs to ensure requirements are met, implementation of regular checks to ensure compliancy). PEAs in Côte d'Ivoire must notably abide by the regulations outlined within Article 11.2 of the Labour Law number 2015–532 of 20 July 2015 and Decree 96–193 from 7 March 1996.

The Head Office for Labour also comprises the Directorate of Labor Regulation (DRT) whose primary responsibility is to regulate labour and employment relations, which includes monitoring and implementation of policies related to employment, work and social protection (Ekpo, 2019). Furthermore, this entity ensures national laws are in line with international labour laws and frameworks (ex. ILO Conventions) while also ensuring that national labour laws are upheld, including Decree 96–193 (March 1996) on private recruitment agencies (Ekpo, 2019).

The **Ministry for the Promotion of Youth and Youth Employment** (Ministère de la Promotion de la Jeunesse et de l'Emploi des Jeunes) oversees the Youth Employment Agency (Agence Emploi Jeunes) and is the main government agency in charge of public employment for people aged 18–40 (République de Côte d'Ivoire, 2019b); it is equally the main agency in charge of monitoring and regulating private recruitment agencies (Zalo, 2019). Services made available by the Ministry include skills development, entrepreneurship, counselling and assistance finding employment and visa facilitation for non-national workers (Zalo, 2019).

The **Ministry of Security and Civilian Protection** includes the Directorate for National Surveillance (Direction de la Surveillance du Territoire DST), which is responsible for the collection of data on migratory flows, the control of in-migration via national borders, the execution of police proceedings regarding foreigners and the deliverance of passports and visas (IOM Côte d'Ivoire, 2019). The DST is a key actor in migration management (IOM, 2017a) and also carries out investigations and interviews with returning migrants, regarding their country of destination and duration of time abroad, among other factors. (Fofana, 2019). According to the DST, some irregular migrants interviewed upon return in Côte d'Ivoire admitted to being recruited for work abroad by informal agencies; these agencies were subsequently tracked and shut down by the DST (Fofana, 2019).

The Head Office of National Police (Direction Générale de la Police Nationale) is also found within the Ministry of Security and Civil Protection; contained therein is the Department of Criminal Police (Direction de la Police Criminelle), Sub-office against Trafficking, Child Exploitation and Juvenile Delinquency (Sous-Direction de la Lutte contre le Trafic, l'Exploitation d'Enfants et la Délinquance Juvenile), also known as the police's anti-trafficking unit. Other entities within the Ministry that address the issue of human trafficking include Brigade Mondaine (responsible for investigating prostitution and sex trafficking) and the transnational organized crime unit, which is composed of several different law enforcement institutions.

The Joint Ministerial Committee on the Fight against Trafficking, Exploitation and Child Labour, established in 2011 (IOM and ICMPD, 2015), is chaired by the Minister of Employment and is entrusted with the responsibility of conceiving, coordinating and implementing anti-trafficking and child labour policies (IOM and ICMPD, 2015). The National Counter-Trafficking Committee established in 2016 via the law n° 1111–2016 has the main responsibility of coordinating all the actions put in place nationally with the objective of fighting trafficking in persons; this entity is still in the process of becoming fully operational.

The **Ministry of Territorial Administration and Decentralization** is in charge of border areas and supervising the decentralized, regional authorities, including the Prefects who are in charge of social services, security and police at the local level (IOM Côte d'Ivoire, 2019).

The **Ministry of Foreign Affairs** (Ministère des Affaires Etrangères, MAE) along with the **Ministry of Integration and Ivoirians Abroad**, which contains the Department of Ivoirians Abroad (Direction des Ivoiriens de l'Exterieur DGIE), are both responsible for promoting migration policy outside of Côte d'Ivoire (IOM, 2017a) and negotiating BLAs and MOUs with other countries (IOM, 2017a). The implementation of BLAs specifically focusing on the promotion of regular migration and circulation of Ivoirian nationals abroad is overseen jointly between the DGIE and the MAE. The MAE furthermore surveys the movement of Ivoirian nationals abroad through its consulates and missions abroad (IOM, 2017a). In addition, the DGIE ensures access to information and protection of Ivorian citizens abroad and is for example a key player for voluntary return of stranded Ivorian migrants. In regard to negotiating MOUs/BLAs, the DGIE is mostly involved if they include a migration component (Konate, 2019). Lastly, the Department of African Integration of the Ministry of Integration and Ivoirians Abroad is in charge of supporting the implementation of the ECOWAS free movement protocol and the integration of migrant workers in country.

### *Public Employment Systems and Labour Migration Management*

With a significant young work force in-country (according to the Observatoire d'Emploi, over 61.4 per cent of jobseekers in Côte d'Ivoire are categorized as youth aged 18–35 (Gnalega, 2019)) the Agence Emploi Jeunes (AEJ) plays a crucial role in the Ivoirian public employment sector. The AEJ is the main public employment agency in the country and replaced the former Agence d'Etude et de Promotion de l'Emploi (AGEPE), Fond National de la Jeunesse (FNJ) as well as absorbing responsibilities of the former Labour Office of Côte d'Ivoire (Abidjan.net, 2015). The AEJ was created on 8 April 2015, by order n°2015–228 under the Ministry for the Promotion of Youth and Youth Employment with a variety of responsibilities, including ensuring the reception, information and orientation of young jobseekers, providing support to those who carry out initiatives potentially creating jobs for young people and implementing special programmes for the vocational reintegration and employment of young people (République de Côte d'Ivoire, 2019b). Its services and programmes are varied and include training, skills development, direct investment in businesses and the Hiring Assistance Program as well as assistance with job search, application, interviews and so forth for employment opportunities within Côte d'Ivoire. However, pre departure orientation for migrant workers are not currently mandated by law nor facilitated by any government office.

The AEJ is also the main government agency that regulates and monitors private recruitment agencies. In this regard, it works with approximately 117 PEAs, the majority of which only recruit on the national level (Gnalega, 2019). The AEJ also organizes a biannual workshop with PEAs to present findings from quarterly reports and share recent trends in labour recruitment; here, the main goal is to inform PEAs of market trends and engage their interest in contributing to a common collaborative platform (Zalo, 2019). The AEJ equally ensures that PEAs keep track of all job offers, requests, applications and placements that have been made. This data must be transmitted to the Direction des Etudes, des Statistiques et du Suivi Evaluation de l'Agence Emploi Jeunes on a triannual basis (Ekpo, 2019); in addition, PEAs are required to

submit quarterly reports. Lastly, AEJ recently began collaborating with Cooptalis, an international recruitment agency, to facilitate the labour recruitment of Ivoirians to France. The recruitment of Ivoirians through Cooptalis has not yet occurred but is planned to take place in the coming months (Zalo, 2019).

Another significant entity involved in the Ivoirian public employment sector is the Head Office for Employment at the **Ministry of Employment and Social Protection**. The Office focuses employment activities on persons aged 40+ as well as vulnerable persons, including women and those with disabilities (Gnalega, 2019). Although no online services exist yet, public employment services continue to be offered in person by the office. The Office carries out actions to match employment and training and simultaneously develops employment promotion and anti-unemployment strategies, in collaboration with public and private structures involved in the field of training-employment for implementation coordination and evaluation purposes. Furthermore, the Office ensures that the national employment policy is aligned with the national economic and social development policy (“Plan National de Développement”).

Within the Ministry of Employment and Social Protection, the Directorate of Strategies and Employment Programs (DSPE) also implements the measures favouring the creation and safeguarding of employment while promoting income-generating activities. The DSPE furthermore proposes strategies to strengthen the hiring capacity of companies while alongside formulating and developing strategies to better match training and employment.

#### *National, International, Regional and Bilateral Frameworks Related to Labour Migration*

Within the Ivoirian Constitution, Art. 378 prohibits forced labour, rendering this offense punishable by 1–5 years of imprisonment. Furthermore, the penal code for forced labour and labour exploitation corresponds to imprisonment of 5–10 years and a fee of 500,000–5,000,000 FCFA (République de Côte d’Ivoire, 2018).

In addition, Côte d’Ivoire passed Law No. 2016–1111 on counter-trafficking in December 2016. The definition of trafficking in persons is described in this law as the “recruitment, transport, transfer, housing or hosting of persons in the ends of exploitation”, including in the circumstances of “promising remuneration” as well as involving the smuggling of migrants (République de Côte d’Ivoire, 2018). One of the main objectives of this law is to “promote and facilitate national and international cooperation in counter-trafficking” (République de Côte d’Ivoire, 2018), which could serve as an argument to expand cooperation efforts inside and outside the country to improve ethical labour recruitment mechanisms and therefore strive towards the strengthening of the prevention-related facet of counter-trafficking efforts. This law furthermore establishes the National Anti-Trafficking Committee (CNLTP); the organization and functioning of this entity are described under decree No. 2017–227, adopted in April 2017. Pursuant to said decree the Committee’s mandate is to: define the orientation of the Government regarding counter-trafficking and ensure their implementation; validate the various programmes and projects relating to counter-trafficking; coordinate the activities of all actors involved in counter-trafficking; and evaluate the implementation of programmes and projects relating to counter-trafficking implemented by governmental and non-governmental actors (République de Côte d’Ivoire, 2017). Furthermore, the decree states that the CNLTP is represented at the regional level by regional CNLTP cells, thus allowing for a country-wide presence (République de Côte d’Ivoire, 2017).

With regards to international legislation, the Government of Côte d’Ivoire has currently ratified the following conventions and agreements:

- The UN Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Smuggling of Migrants by Land, Sea and Air (2000);

- The International Covenant on Civil and Political Rights (1966);
- The International Covenant on Economic, Social and Cultural Rights (1966);
- The Convention on the Elimination of All Forms of Discrimination against Women (1979);
- The Convention on the Rights of the Child (1989).

Côte d'Ivoire has ratified 40 ILO Conventions, although only 36 of these conventions are currently in force in Côte d'Ivoire (ILO, 2019b).

However, it has not yet ratified several of those ILO Conventions that apply in the context of ethical labour recruitment and protecting the rights of migrant workers, including the Migration for Employment Convention of 1949 (No. 97), the Private Employment Agencies Convention of 1997 (No. 181), the Domestic Workers Convention of 2011 (No. 189), Migrant Workers Supplementary Provisions Convention of 1975 (No. 143) (ILO, 2019b) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990 (UN, 2019).

At the regional level, Côte d'Ivoire is bound by ECOWAS texts including the ECOWAS Treaty (1975) and its subsequent protocols, such as the Protocol on Free Movement of Persons, Residence and Establishment (IOM, 2018a).

With regards to MOUs and BLAs implemented by the Government, the only BLA currently recognized in Côte d'Ivoire is the one signed with Qatar, which is currently under review. In Côte d'Ivoire, MOUs/BLAs on migration-related matters are rather limited, partially as the free circulation within ECOWAS provides an attractive alternative to such formal agreements within the region (IOM and ICMPD, 2015). Few BLAs/MOUs have been signed, mainly due to Côte d'Ivoire's longstanding policy of economic liberalization (Yeo, 2019).

The current drafted MOUs and BLAs are as detailed below:

<p><b>Côte d'Ivoire – Qatar</b></p>	<p>Pending BLA with Qatar, negotiations in process for an agreement which pertains to the regulation of labour migration from Côte d'Ivoire to Qatar. The BLA was finalized in September 2018 (Ekpo, 2019).</p> <p>The MOU signed in September 2018 concerns the regulation of the employment of Ivorian citizens in Qatar. This agreement will regulate the recruitment of Ivorian workers residing in Côte d'Ivoire, their entry and employment in the State of Qatar. The president of Côte d'Ivoire has supervised the conditions for the conclusion of contracts by the two ministries in charge of Employment which now channel recruitment and aim to avoid abuses (FratMat, 2018).</p> <p>The agreement also allows for both information sharing (advertising of available positions in Qatar, required skills, the capacities of the available Ivorian workforce) and the direct supervision of labour recruitment, contract conditions and entry proceedings in Qatar in order to more effectively prevent instances of trafficking in persons.</p>
<p><b>Côte d'Ivoire – France</b></p>	<p>The 1992 Convention on Circulation and Stay of Persons between Côte d'Ivoire and France provides family members with permits for family reunification. This convention in turn creates the opportunity for Ivoirians to apply for ten-year residence permit in France after a three-year stay (MGSoF, 2017); the convention remains in force. A social security agreement was also concluded with France in 1985 (IOM and ICMPD, 2015).</p>



## Côte d'Ivoire – Burkina Faso

A convention was signed between the two countries in 1960 and was dedicated to the conditions and employment of Burkinabe migrants in Côte d'Ivoire. This convention was however suspended in 1974 due to a lack of respect for a number of provisions (IOM and ICMPD, 2015).

A BLA was also signed between the two countries in 2013 with a focus on combating cross-border trafficking in persons of children (République de Côte d'Ivoire, 2013).

### Private Employment Systems

As detailed in preceding sections, the majority of labour recruitment in Côte d'Ivoire is informal and limited to the national level. Licensed recruitment agencies in Côte d'Ivoire function primarily inside of the country are not as frequently utilized to secure employment in comparison with informal social and familial networks.

According to Agence Emploi Jeunes, approximately 100 private recruitment agencies are currently authorized by the Government to function legally in Côte d'Ivoire, the large majority of which function domestically. On the other hand, a recent government investigation uncovered that over 200 informal agencies/agents exist and currently recruit both within Côte d'Ivoire and on the international level (Konate, 2019).

For the study, three PEAs were interviewed in Côte d'Ivoire, as well as a trade association of private agencies/agents in the sector of domestic work in Côte d'Ivoire.<sup>4</sup>

**Recruitment Agency 1** is a private recruitment agency authorized by AEJ and registered with the CEPICI. This agency submits monthly reports to the AEJ pertaining to the number of youths recruited, placed and integrated into the job market.

The agency provides labour recruitment and training services limited to the domestic level. It only recruits for companies and organizations and does not charge fees to jobseekers, instead ensuring that employers cover at least 60 per cent of the fees, while the agency covers the rest. The agency recruits for positions in various sectors, from high skilled jobs in the banking sector to lower skilled jobs in domestic work. The recruitment process is as follows: the agency maintains a database of Curriculum Vitae and after being solicited by an employer to find a candidate for a certain profile, it advertises for the post on their website and social media pages. Subsequently, the agency conducts interviews with candidates and shortlists them for final selection. Prior to all placements, the agency provides all jobseekers with contact information of staff to reach at the agency in the case they face issues at their new place of employment. In addition, the agency follows up with candidates regularly to ensure the placement went smoothly.

The aforementioned agency has not faced many issues in its recruitment activities. The major problem they have encountered is the lack of communication on the part of employers, whom do not respect deadlines in choosing final candidates from the shortlists. Oftentimes, this leads to frustration as candidates must wait for a final response for several months. If they abandon the opportunity, the agency must reinitiate the entire recruitment process. In addition, agency representatives believe that there is high competition among recruitment agencies in Côte d'Ivoire at the national level, which drives many agencies to operate underground (as they

<sup>4</sup> For legal and other purposes, these organizations will be kept anonymous and referred to as "Recruitment Agency 1, 2, 3", etc.

can charge lower fees). Due to the competition, the agency rarely communicates with other agencies and believes that joining a trade or umbrella association would not be beneficial to their business. Lastly, the agency does not feel restrained in any way by current government laws and regulations related to private recruitment agencies.

**Recruitment Agency 2** is another private recruitment agency and a member of a trade association in Côte d'Ivoire. This agency is registered as a formal business with the CEPICI. This agency recruits both nationally and internationally, primarily in sectors of domestic work for positions such as caretakers, cleaners, cooks as well as other low-skilled jobs such as hairdressers. The agency charges a fee of 5 to 10 per cent from the workers' first month's salary.

On the international level, the agency has recruited to Tunisia, Morocco, Cameroon, Ghana as well as Saudi Arabia. Specifically, the agency recruited two domestic workers to Cameroon, four domestic workers to Ghana and four domestic workers and two hairdressers to Morocco. The agency has also recruited 8 female candidates for domestic work positions in local families in Saudi Arabia. The recruitment of domestic workers to Saudi Arabia was facilitated through a personal connection between the agency's manager and an Ivoirian citizen employed at the Ivoirian Mission in Riyadh. Only two of the women have returned to Côte d'Ivoire, the majority have stayed for a period of four years.

Prior to placement of workers abroad, the aforementioned agency provides them with advice and information on the specific destination country, including work expectations and the code of conduct. The agency's manager also provides each candidate with his personal phone number and follows up with each worker one to two times per week to ensure the placement is going smoothly.

The aforementioned agency has faced several issues in recruiting abroad, namely that recruited workers have faced abuse such as restricted freedom of mobility and increased work expectations beyond those specified in the contract. In Saudi Arabia for example, one recruited domestic worker was required to work overtime and clean the households of her employer's mother as well as the office of her employer's husband. Upon complaining to the agency, the worker was repatriated to Côte d'Ivoire by the agency, who then concluded working with the employer. Additionally, in Morocco, a domestic worker had her passport confiscated by her employer and attempted to flee but since she had signed a 2-year contract, she could not return to Côte d'Ivoire. The agency tried to intervene on her behalf but was unable to repatriate her since she was still obliged to work for the duration of her contract.

**Trade Association** is a trade union of private recruiters for domestic workers in Côte d'Ivoire. According to the general secretary, agents/agencies recruiting in the sector of domestic work function at both national and international levels. Most of these agents/agencies function irregularly without government authorization: only 4 of the 96 members are registered formally as businesses with the CEPICI. The majority of these agencies also pocket fees for recruitment services, normally from 10 to 30 per cent of the person's first months' salary. In addition, agents recruit a majority of female candidates (75%) and Ivoirian citizens (80%), though they have also recruited migrants from Burkina Faso, Mali, Ghana, Benin, Togo and other countries in the subregion.

Trade Association also states that agencies/agents recruiting in the sector of domestic work in Côte d'Ivoire have faced many issues, chief among them abuse and exploitation of domestic workers by employers (for instance, long working hours, verbal and physical abuse, restriction of movement). Despite the proliferation of these issues within the sector, many agencies have been able to address employers directly, reported them to the police and even file cases against them with the national judicial body. For instance, one agency discovered that a family member in the employers' household had abused the recruited female worker, upon which the agency reported

the person to the police, leading to his imprisonment. Simultaneously, there has also been an alarming trend of agents in the sector of domestic work partaking in the abuse and exploitation of female jobseekers themselves, however, the trade union has been active in uncovering these agents and ensuring no such agencies are allowed to join the union.

**Recruitment Agency 3** is a continental private recruitment agency based in Mauritius with an affiliate office based in Abidjan. The agency also has offices in Senegal, Morocco, Kenya and in France. The agency categorizes itself as a recruitment agency, providing mostly recruitment-related services. It does not charge any fees to jobseekers for recruitment services. The agency is also registered as a business with the pertinent corporate affairs body and the Ministry of Labour.

The agency recruits for mostly high-skilled positions in multinational companies, international and regional organizations, as well as small and medium enterprises. In Côte d'Ivoire, the agency recruits candidates for positions in the agribusiness industry, in energy, telecommunications, tourism, construction and transportation. In addition, the agency has noticed a growing trend of increased recruitment of Ivorian diaspora to return to their countries of origin or to other countries in the ECOWAS sub region.

In the past, the agency has faced few issues in carrying out its recruitment activities. Primarily, they have had some rare examples of candidates leaving their posts prematurely or abandoning them without alerting the agency. Some candidates left their posts due to fear for safety, in certain countries with heightened security situations such as Burkina Faso. The agency has dealt with these issues swiftly and ensured the candidate was able to return safely and replaced in the need that he/she left their previous post.

#### *Regulation of Labour Recruitment and Private Recruitment Agencies in Côte d'Ivoire*

Regarding domestic legislation, Côte d'Ivoire has several key instruments pertaining to labour recruitment effectuated by PEAs. The country's Labour Code, created in 1964 and updated in 2017, contains pertinent articles related to private labour recruitment, as follows:

- Article 11.1: "Employers can engage workers through the services offered by private recruitment and placement agencies."
- Article 11.2: "Private offices for placement have as their primary objective to act as intermediaries between employers and workers in the conditions determined by the decree."

Furthermore, Decree No. 96–193 (March 1996) relates to Private Recruitment and Placement Agencies, containing therein a number of provisions regulating private recruitment practices and PEAs. According to this Decree, a private placement agency is defined as "a paying employment agency with a profit-making purpose means any natural or legal person who, as a mere intermediary and in return for remuneration, workers with employers." (Doumbia, 2001)

PEAs are bound by Articles proposed by Decree 96–193 from March 1996, which excludes agencies recruiting for temporary work as well as those involved in recruitment of seafarers (République de Côte d'Ivoire, 1996). This decree does not distinguish between national versus international placement; however, it does stipulate through Article 12 that the placement of an Ivorian worker abroad without proper work authorization leads to termination of said contract, at the expense of the employer (République de Côte d'Ivoire, 1996). In order to apply for licensing certification by the Agence Emploi Jeunes, the PEA must submit a number of required documents: an application for authorization to open an office, proof of civil status, an updated criminal record from the last three months and a certificate from the tax authorities. The

agency must also submit the articles of association of the company and a tax position certificate (République de Côte d'Ivoire, 1996).

Private recruitment agencies must also pay an initial licensing fee: 250,000 CFA for those recruiting for temporary labour; with a 250,000 CFA for annual renewal and 200,000 CFA for those recruiting for permanent labour with a fee of 100,000 CFA for annual license renewal (Zalo, 2019). Upon obtaining authorization from AEJ and the Ministry of Labour, the agency concerned must register with the commercial register CEPICI (Guichet Unique de l'Investissement en Côte d'Ivoire), prior to opening and initiating activities (République de Côte d'Ivoire, 1996).

Upon certification, each agency is required to maintain a register of job offers, job applications and a register of actual investments. Information on candidates, including nationality, profession, qualifications, and the applicant's registration number at the National Social Welfare Fund, must be recorded by the agency. Subsequently, the agency must submit quarterly reports to AEJ, detailing the above in addition to the number of placements made for persons aged 18–40 specifically, including information on candidates, positions and sectors of employment (Zalo, 2019).

According to Article 13 of the Decree no 96–193 in Ivorian labour law, all agencies must ensure the cost of recruitment is covered by the employer (rather than the candidates themselves). In addition, any PEA that performs labour recruitment activities without authorization, utilizes fraud to open a recruitment office, or attempts to recruit by means of misrepresentation or false documentation, constitutes as an offender and is subject to penalties provided for in Article 308 of the Penal Code (1981), specifically a prison sentence of six months to two years and a fine of 150,000 to 1,500,000 CFA (République de Côte d'Ivoire, 1981).

### 2.1.3. Non-State Actors and Labour Migration

The **Union Générale des Travailleurs de Côte d'Ivoire (UGTCI)** is the oldest national trade union in Côte d'Ivoire, established in 1962. It brings together 157 trade unions from the public, private and informal sectors of the economy. UGTCI is involved in a number of actions, such as providing trainings to member trade unions and assisting workers with relevant issues such as social security benefits. On the international level, the UGTCI is a Member of the West African Workers' Organization (WAHO), ITUC-AFRICA, the Organization of African Trade Union Unity (OATUU), and the International Trade Union Confederation (ITUC). The UGTCI is also a major interlocutor with the private sector in which it addresses issues such as wage readjustment.

The **Fédération des Syndicats Autonomes de Côte d'Ivoire (FESACI)** is a coalition of independent trade unions in Côte d'Ivoire. It was established in 1992 and currently comprises 154 trade union members from private, public and informal sectors of the economy. FESACI holds regular meetings with specific members and an annual general assembly with the members on an annual basis (N'Dri, 2019).

FESACI established a Department of Migration in 2017, in the objective of identifying the number of migrant workers involved in FESACI by employing members to conduct studies on the proportion of migrants and non-migrants in their respective unions. The Department aims to assist migrants by lobbying for improved legislation that favours migrant integration and non-discrimination against migrants, while promoting the rights of migrants. FESACI also created a Migration Platform in the aim of assisting Ivorian migrants to organize abroad; for instance, FESACI has supported the creation of a partner trade union in Tunisia. FESACI has not yet organized any protests or events related to issues faced by migrants in Côte d'Ivoire but plans to do so in the near future (N'Dri, 2019).

The **Syndicat Nationale des Agentes et Agences de Placement de Côte d'Ivoire** is the only trade union that organizes private recruitment agencies in the country (Coulibaly, 2019). It was established in 2018 and authorized by the Government in 2019. The union regroups 96 members: private recruitment agencies and agents (only 4 of which are registered with the CEPICI) and all of which are involved in recruitment for the domestic work sector both in Côte d'Ivoire and abroad. The only requirement to join the trade union is that the agency pays taxes to the Government (Coulibaly, 2019).

The trade union has also put in place a platform to connect employers (mostly individual families) and jobseekers, which will soon be digital. The union does not currently provide training for members but aims to establish a centralized training programme for domestic workers in the future, to which member agencies can send workers to be trained prior to their placement (Coulibaly, 2019). The union is also working closely with the International Labour Organization in lobbying for the Government to ratify ILO Convention 189 (Domestic Workers) (Coulibaly, 2019).

**SOS Immigration Clandestine** is a local NGO established in 2007, which aims to advocate against all forms of irregular migration and promote better management of migratory flows in respect with immigration laws of destination countries (SOS Immigration Clandestine, 2019). SOS Immigration Clandestine has conducted studies on irregular migration from Côte d'Ivoire to Europe and identified several smuggling networks operating in the country (SOS Immigration Clandestine, 2019). In addition, the NGO regularly organizes public information campaigns around the country on the risks of irregular migration. SOS also supports return migrants in starting their own income generating activities, through providing technical training and capacity-building activities. The NGO has also initiated projects to propose alternatives to irregular migration for youth from Côte d'Ivoire (SOS Immigration Clandestine, 2019).

#### 2.1.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations

The above sections shed light on a number of barriers stakeholders face to promoting ethical recruitment and protecting migrant workers in Côte d'Ivoire. Specific challenges and recommendations are discussed below.

##### Development of a national migration policy, a labour migration policy and central interagency coordination on migration.

Côte d'Ivoire could benefit from the development of a national migration and labour migration policy in order to enhance on-going efforts to improve migration management within the country and specify clear objectives as well as ways forward in the field of labour migration. In addition, the development of a centralized interagency on migration management could highly benefit coordination on migration related issues in the country.

##### Increased resources and capacity for effective monitoring and regulation of PEAs.

It would be beneficial for the Government to develop a more stringent framework for the monitoring and regulation of PEAs, including the development of a penal code for noncompliant PEAs; this would contribute to the prompting of PEAs to increasingly abide by established national regulations concerning registration and functioning of PEAs as well as to ultimately strengthening the protection of jobseekers who may be utilizing these agencies.

Agence Emploi Jeunes faces many barriers with regards to regulating and monitoring private recruitment/placement agencies. Primarily, the lack of enforcement mechanisms allows PEAs to avoid complying with laws. For instance, only about 23 per cent of licensed agencies submit reports to AEJ on a tri-annual basis as required, while the rest only report annually when they apply to renew their licenses (Zalo, 2019). In addition, despite being prohibited to charge fees for labour recruitment services by Decree 96–193 of the labour law, many certified PEAs charge jobseekers fees for recruitment services. For example, PEAs partner with universities and charge fees to students for labour recruitment and employment services in order to help them secure a job upon graduation.

Subsequently, AEJ is restricted in the sanctions and penalties that it can impose on noncompliant PEAs, such as those that charge fees or fail to submit quarterly reports. The AEJ can only shut down such agencies and refuse to renew their licenses, which does not necessarily prevent them from continuing to operate in an irregular manner.

Additionally, many PEAs in Côte d'Ivoire lack awareness of current labour laws and their internal systems and codes of conduct are not aligned with those put forth in relevant legislation. AEJ has realized this during their work with agencies and aims to work with them in the near future in updating their internal management systems and codes of conduct to ensure they align with labour laws.

In addition, national job portal websites such as *Educarriere* post job advertisements from private agencies and agents irrespective of whether they are formal agencies or informal agencies (Zalo, 2019). The Government does not currently have oversight of these job portals, which allows them to post advertisements from informal agencies and put jobseekers at risk of potential exploitation and abuse.

#### **Revised legislation and licensing procedures for private recruitment agencies.**

It would be advantageous for the Government to revise all legislation pertaining to PEAs, including the registration and licensing procedure. Current legislation does not apply to private agencies recruiting for temporary work and does not specify requirements for PEAs recruiting on the international level. According to respondents from PEAs, procedures for registration and licensing are also time consuming and expensive, which deters many agencies from formalizing and becoming licensed.

#### **Ratification of key international conventions and frameworks.**

It would be favourable for Côte d'Ivoire to ratify key international conventions related to the protection of migrant workers and ethical labour recruitment, including ILO Convention 181, UN Convention on the Rights of Migrant Workers and Their Families (1990) and the UNODC Protocol against Illegal Trafficking (IOM, 2017a). The ratification of these conventions is key in ensuring the protection of both migrant workers in Côte d'Ivoire and of Ivorian migrants abroad, as well as in providing essential standards to which all entities undertaking recruitment practices should adhere.

#### **Address the lack of trust and widespread informality in the private recruitment industry in Côte d'Ivoire.**

The high level of competition among private recruitment agencies in Côte d'Ivoire has led to an environment of mistrust in the recruitment industry. Some PEAs even refuse to work with AEJ because they view this entity as a competitor in the market, since public employment and recruitment services offered by AEJ are free for jobseekers. The high level of competition also deters PEAs from collaborating and forming a union or umbrella association in the country.

Subsequently, the dominance of informal employment (almost 60% of wage jobs in the country) contributes to informality in the recruitment industry, as many jobs for which candidates are recruited are for informal employment. These factors allow informal recruitment to flourish without government monitoring and awareness (World Bank, 2017).

It would therefore be useful for AEJ to work towards establishing trust between PEAs in the country, as well as give benefits to those PEAs who agree to work with AEJ and follow established rules and procedures. AEJ should also encourage PEAs to organize themselves as a trade union or umbrella body to discuss and voice their concerns, they could select one leading PEA to facilitate the organization with the support of AEJ.

### **Fully acknowledge and address the high risk of trafficking in persons and migrant smuggling resulting from informal recruitment practices.**

It would be advantageous for the Government, particularly the Department of Criminal Police, Sub-office against Trafficking in Persons, Child Exploitation and Juvenile Delinquency, to fully acknowledge and address the links between trafficking in persons, migrant smuggling and informal labour recruitment practices.

The overarching trend of informal labour recruitment and employment in Côte d'Ivoire presents a major risk of trafficking in persons and migrant smuggling due to gaps in regulation and monitoring, and therefore general knowledge of interactions between jobseekers, recruiters and employers. If recruitment occurs in a country where the jobseeker would need a visa and/or work permit to enter into employment, migrant smuggling may become a major risk. With limited governmental regulation, the risk of trafficking also significantly increases upon arrival in cases where informal labour recruitment occurs. Workers whose protection is not insured by formal contracts and oversight mechanisms become highly vulnerable to forced labour or sexual exploitation and abuse. These risks are thus intertwined and result directly from informal labour recruitment and employment practices.

### **Increase support for domestic workers recruited by PEAS.**

As stated above, the risk of trafficking in persons and migrant smuggling is heightened in the informal labour recruitment and employment sector due to limited regulation and oversight; individuals seeking work in the service industry are particularly at risk. Private recruitment agencies that recruit domestic workers are mostly present in the informal sector and candidates are thus recruited through informal channels. According to respondents in Côte d'Ivoire, recruited domestic workers often find themselves in situations of exploitation, forced labour and abuse. A large majority of these agencies also charge domestic workers fees, equivalent to a percentage of one of more months' salary, putting them at further risk of exploitation and forced labour (Coulibaly, 2019).

In addition, female candidates seeking domestic work through informal agencies often come from rural areas in the country and face significant language barriers in communicating with the agent and employer, which puts them at further risk. Furthermore, many of these candidates do not possess official identification documents, allowing for some agencies to recruit candidates under 18 years old (Coulibaly, 2019).

Many agencies that recruit for service and domestic work also do not monitor nor follow up with candidates they recruit to ensure the placement process is going smoothly. Furthermore, respondents noted that employers often view domestic workers as "temporary workers" and have difficulties ensuring that employers respect the terms outlined in their employment contracts.

To address the vulnerability of domestic workers within this industry, it would be constructive for the Government to develop specific legislation pertaining to the recruitment of domestic workers. For example, PEAs recruiting domestic workers should comply with additional requirements, such as providing the Government with proof that domestic workers were not charged for recruitment services, formal contracts with employers and their contact information in the case the worker faces issues, as well as proof of payment of salary on a regular basis.

#### **Facilitate international labour recruitment through existing public employment services.**

It would be advantageous for the Government to conduct market assessments on job opportunities available outside of the country as well as increase cooperation with international companies and organizations, in order to facilitate public recruitment for positions abroad.

The current public employment services managed by the DGE and ANPEJ do not offer any employment opportunities outside of Côte d'Ivoire. The Government has also not yet conducted market assessments on existing as well as potential future countries of destination and employment sectors (IOM and ICMPD, 2015). For these reasons, the public employment service does not match the labour supply and demand in the international labour market, which hinders jobseekers from finding employment abroad via formal means. Since opportunities for labour migration are not supplied by the Government through the means of recruitment, many citizens choose to utilize private recruitment agencies to seek employment abroad, which may or may not be licensed and regulated.

#### **Spread awareness among the general population.**

It would be beneficial for the Government to organize awareness-raising campaigns on the risks of informal labour recruitment and provide information on how jobseekers can find employment through licensed and regulated PEAs.

According to respondents, there is a lack awareness among the general population of differences between formal and informal agencies and the risks associated with informal recruitment, including trafficking in persons, migrant smuggling and other forms of exploitation. In addition, the public is generally unaware of the laws related to labour recruitment and its central tenets, such as that recruitment services should be free (Adebosin, 2019). Many jobseekers are therefore unaware of their rights during the process of seeking employment both nationally and internally and of the procedures for seeking a job abroad through formal means.

## **2.2. The Gambia**

In the Gambia, accurate and recent data on migration is in the process of being updated. Although the last census was conducted in 2013, the Gambia Bureau of Statistics (GBoS) has begun conducting a labour migration study with the results expected to be released in 2020 (IOM, 2019d). The Gambia has several public employment services, yet none of them is currently functioning. There are no laws regulating the activities of private agencies nor international labour recruitment in general. In the Gambia, informal recruitment has been linked to trafficking in persons and exploitation. A recent IOM study on Gambian domestic workers in the Middle East revealed that many Gambian women were recruited by informal agencies with promises of jobs abroad and subsequently exploited or trafficked (IOMa).

In December 2018, IOM organized a workshop focusing on labour agreements and labour migration with the Ministry of Trade, Industry, Regional Integration and Employment (MoTIE). In August 2019, a second workshop was organized on labour mobility, labour exploitation and ethical labour recruitment specifically, in coordination with MoTIE. The objectives of the second



workshop included enhancing the capacity of government actors, civil society, recruitment agencies and employer associations on national and international frameworks regarding labour migration; enhancing coordination among actors working on issues related to migrant workers; and guiding government actors to develop effective labour management policies and programmes that consider the protection of vulnerable migrants.

### 2.2.1. Situational Analysis

#### *In-migration to the Gambia*

As of 2019, approximately 215,000 international migrants were present in the Gambia, constituting thus over 9 per cent of the total country population (UN DESA, 2019). Main countries of origin include: Senegal (61.5%), Guinea (21%), Guinea-Bissau (6.4%) and Mali (4.8%) (UN DESA, 2019).

A large majority of migrants are employed in low-skilled sectors, including services and sales (60%), crafts and trade (16%) and agriculture and fisheries (11%). Only 3.4 per cent of foreign nationals in the Gambia are employed in high skilled jobs (IOM, 2017b). Other migrants are employed in projects financed by their own countries, such as Chinese workers employed in Chinese funded infrastructure development projects (Sanneh, 2018). The recruitment of migrant workers to the Gambia is rare. There is no evidence of migrants being recruited to work in the Gambia other than for highly skilled jobs in the NGO and government sectors.

The Gambia is mainly a country of out-migration due to several intervening factors. High population growth has resulted in 66 per cent of the population being under the age of 25 (IOM, 2017b). In addition, low economic development, high levels of unemployment and droughts have further motivated the departure of Gambians abroad through both regular and irregular channels (ibid.).

#### *Out-migration from the Gambia*

Currently, almost 900,000 Gambians (5% of total population) live abroad. Gambian citizens can be found in primarily three destination countries: the United States (23%), Spain (19%) and the United Kingdom (14%) (ibid.). Other major countries of destination are in the ECOWAS region, the most common being Mali, Senegal and Sierra Leone (ibid.). The country has also been affected by a wave of Gambians migrating irregularly to Europe. Findings estimate over 200,000 individuals have attempted to make the journey either via the Mediterranean Sea or the Sahara Desert. According to respondents, these migrants were not recruited but utilized the services of smugglers to assist in transporting them illegally to their preferred countries of destination (Dampha, 2018). Furthermore, findings from the Gambia Labour Force Survey of 2018 show that over 62 per cent of Gambians who emigrated during the five years preceding the survey had done so irregularly (Republic of the Gambia, 2018).

Furthermore, IOM has in recent years compiled data of irregular migration flows arriving in Europe. From this data, a prominent trend involves Italy and, to a slightly less degree, Spain being the principal destinations for irregular migratory flows originating from the Gambia towards Europe since 2016. Gambian nationals were among the top ten nationalities to arrive in Italy in 2016, constituting 6.6 per cent of total arrivals; in 2017, this trend continued as Gambians once again constituted approximately 6 per cent of total arrivals (equaling approximately 49,500 individuals) (IOM, 2018d). Additionally, Spain saw approximately 2,700 Gambians arriving irregularly in 2017, equaling 10.5 per cent of total arrivals for 2017. However, 2018 saw a significant decrease in Gambian arrivals in Italy with Gambians no longer found within one of the top ten nationalities amongst the year's arrivals, a trend that has continued in 2019 (IOM, 2018c). This trend has not applied to Spain as Gambians remain amongst the top ten nationalities to arrive in Spain during both 2018 and 2019; in 2018 Gambians constituted 3 per cent of all sea

arrivals (approximately 1,700 individuals) and 2 per cent (approximately 200 individuals) of all sea arrivals during January–June 2019 (IOM, 2019b). However, these figures do not take into account the number of migrants present in other locations along the irregular migration route, such as Algeria and Libya.

The services of international recruitment and placement agencies have allowed many Gambians to migrate and work abroad. One such example is of the growing number of Gambians migrating to the Gulf region to work in the domestic and service sectors as well as manual labour and security services (IOMa). Most information regarding the migration of Gambians to the region comes from testimonies of returned migrants, including victims of trafficking in persons and exploitation who have since returned. A recent IOM report on Gambian domestic workers in the Gulf region found that most workers had solicited the services of informal agents or agencies in order to find employment, transportation and a visa for their employment abroad (IOMa).

### *Labour recruitment: Identified trends and issues*

Several trends have been recognized in regard to the relationship between labour recruitment, employment and migration in the country. It is apparent that due to a lack of affordable and accessible channels for regular migration, Gambians without formal training and higher education or of lower economic status tend to work in low skilled occupations abroad and travel through informal channels.

Subsequently, formal labour recruitment in the Gambia is restricted to the national level. International recruitment or placement of Gambian citizens is carried out by informal private agencies and agents, private agencies based abroad, or directly by international companies themselves.

However, as there are currently no regulations in place for private recruitment agencies, the Government does not have a realistic estimate regarding the number of PEAs operating in the Gambia. The information available is anecdotal based on PEAs who provide their services in the general public domain (IOM, 2019d).

Various abuses have been identified in the labour recruitment industry at the national level. Some informal agents are individuals who recruit without an office or formal structure to supplement their income, thus undertaking recruitment as a side occupation. These agents often function through social and family networks and the Government has very limited information about them (IOMa). Other informal agents can be categorized as “visa facilitators.” They assist jobseekers in securing visas to travel abroad but do not promise them a job nor supply them with a formal contract. Other abuses include the use of fraudulent contracts or contracts that utilized vague language, not referring specifically to the number of working hours and days and remuneration.

Findings from the IOM report and stakeholder consultations confirm the strong link between informal recruitment, trafficking in persons and exploitation in the Gambia. From 2002–2016, most trafficking victims from the Gambia entered the trafficking process through informal labour recruitment. The report investigated several cases identified by the National Agency against Trafficking in Persons (NAATIP) of both men and women recruited by agents and trafficked for the purpose of exploitation to Egypt, Kuwait, Lebanon and the United Arab Emirates (IOMa). Sectors of employment they worked in included domestic work and hospitality for women and construction and mining for men. Recruitment agents in the Gambia had facilitated transportation by air and secured temporary visas for the workers. As the current Labour Act does not include provisions concerning licensing for recruitment agencies, the majority of these agents were informal and unregistered as businesses and as such did not have legal right to operate in the Gambia (IOMa). Gambian recruitment agents collaborated with agents set up in countries based in the Gulf who were nationals of those countries. The report stated that migrants paid

an amount ranging from 5,000–40,000 Gambian dalasi (approximately USD 100–800) to their agents in the Gambia prior to leaving the country. The majority of these individuals did not sign a contract prior to their departure. Only two women claimed to have signed a contract before leaving, which they could not understand as it was written in Arabic (IOMa).

Subsequently, NAATIP has investigated a number of cases of trafficking in persons; NAATIP is a coordinating body under the Ministry of Justice (MOJ) but does not however have the power to prosecute (IOM, 2019d). Although NAATIP works with the other law enforcement entities to gather evidence and conduct investigations, the conviction of prosecuted human traffickers is lacking in the Gambia. For instance, six potential agents of trafficking in persons to the Middle East were arrested, of which four persons were charged at the Magistrate Court in 2015 but none was convicted (IOMa). Two cases from 2016 are still pending prosecution, one of a Gambian recruitment agent charged for trafficking women to Kuwait and another of a government official charged with trafficking Gambian women to Egypt. In 2017, another case was brought to court of a Lebanese national who had trafficked Gambian women to Lebanon but was not convicted. In 2018, NAATIP investigated the case of potential trafficking of Gambian men for construction work in Qatar.

## 2.2.2. Labour Migration Management at the National Level

### *Roles and Responsibilities of Government Offices*

The political lead for migration is taken up by the Office of the Vice President and the Ministry of the Interior. The Ministry of Interior (MOI), specifically its Statistic Unit, is the main institution in charge of collecting data on both regular and irregular migration. It is also responsible for migration management, issuing documents such as visas, residential permits, alien cards and national identification cards (IOM, 2017b). The MOI also works in conjunction with the National Agency against Trafficking in Persons (NAATIP) on issues regarding irregular migration and trafficking in persons (further discussed below). In addition, the IOM along with the Office of the Vice President (OVP) are working to establish a general National Coordination Mechanism for all matters related to migration, as to be managed by the OVP (ibid.).

The Ministry of Trade, Industry, Regional Integration and Employment (MOTIE) and the Department of Labour are also involved in migration related issues. MOTIE is administratively responsible for the Expatriate Quota Secretariat (responsible for expat employment in the Gambia and operated by the Gambia Immigration Department) and is also working on investment facilitation for the Gambian diaspora (ibid.).

The Gambia also does not have a labour migration policy. The Gambia National Migration Policy was drafted in 2017 by the Ministry of the Interior in coordination with the IOM. The Policy has been finalized at time of this report and IOM and MOI plans for final endorsement by December 2019 (IOM, 2019d).

The Policy emphasizes the importance of labour migration for the country, as stated in its main objectives: to promote the orderly and safe migration of Gambian citizens, ensure protection of vulnerable Gambian migrants, contribute to the eradication of trafficking in persons and ensure the human, economic, labour and civil rights of Gambians abroad are protected (Republic of the Gambia, 2017). Section 4.3 of the policy explicitly mentions the regulation of international labour recruitment and private recruitment agencies. The Government specifically “envisions developing a labour migration policy to regulate the activities of private labour recruiters in order to prevent exploitation of migrants,” and aims to “establish national system to account for international deployment through the expansion of the role of the ‘Personnel Management Office’ to account for international labour recruitment practices”. It also proposes to “establish focal points tasked with providing assistance and protection to Gambian workers abroad in Embassies and major countries of destination, and determine skills needed and existing in the

Gambian labour market through the timely collection of data and the establishment of the LMIS to be shared with other countries” (Republic of the Gambia, 2017).

The Ministry of Foreign Affairs (MOFA) is the lead on diaspora engagement, consular affairs and related migration issues. It is responsible for consular assistance to Gambians abroad, as well as for implementing bilateral, regional and international agreements regarding migration, as well as the identification and repatriation of Gambians living abroad.

The Gambian Bureau of Statistics (GBoS) is the main body in charge of data collection, analysis and providing assistance to Ministries in policymaking and implementation (IOM, 2017b). The GBoS conducted the Gambia Labour Force Survey in 2012, a section of which was dedicated to migration. The most recent survey was conducted in 2018 and the results from it were released in January 2019 (IOM, 2019d).

The NAATIP and the Ministry of Interior collect information regarding irregular migration and cases of trafficking in persons, issues that are intrinsically linked to informal labour recruitment and irregular labour migration. Such cases are registered by NAATIP and then referred to the Ministry of Justice (IOM, 2017b). In 2004, NAATIP established a Task Force to evaluate trafficking cases with key government, NGO, and civil society stakeholders, which meets on a quarterly basis to share information, publish annual reports. In the near future, NAATIP also plans to arrange a fact-finding mission to Qatar to investigate trafficking cases of Gambians.

Lastly, Gambian embassies and consulates abroad have, in some instances, provided support to Gambian migrant workers or victims of trafficking abroad. For example, the Gambian Embassy in Saudi Arabia and the Gambian Consulate in Lebanon assisted several migrant workers and victims of trafficking in getting passports and referring them to shelters and safe houses (Dampha, 2018). The official from MOTIE claimed, however, that Gambian consulates have encountered difficulties assisting migrants with managing their irregular status abroad and assisting them to return home without the necessary documentation and visa (ibid.).

### *Public Employment Services*

In the public sector, the Public Service Commission (PSC) and its operational arm, the Public Management Office (PMO), are mandate holders for labour recruitment and employment regarding policy and regulatory matters at the national level. The Public Service Commission assists jobseekers with placement and recruitment in the public sector and is currently functional. The PMO executes the decisions of the PSC and the head of PMO reports to the Secretary General at the Office of the President (IOM, 2017b).

MOTIE is responsible for national employment, specifically focused on increasing youth access to the labour market (IOM, 2017b). Recently, MOTIE signed an agreement with Gam Jobs, a private employment agency, to assist the Government in establishing a new online job placement and recruitment service. Additionally, MOTIE created the Public Employment Service Unit in accordance with the 2007 Labour Act, which is responsible for in-person job matching and employment services. However, the Unit is currently inactive and has been referred to by jobseekers as outdated and irrelevant as many Gambians are unaware of its existence. Under the Gambian Labour Act, it is also not mandatory for employers to file vacancies with the Unit, which severely inhibits the Unit's capacity to function and provide up to date information on vacancies to jobseekers.

Outside of the public sector, MOTIE facilitates recruitment via several selected private formal agencies including Gam Jobs, Amra, YMCA and EASE (Dampha, 2018). The Government employs the selected agencies as interim agencies to assist with job matching and finding candidates for selected open positions both the public and private sectors.

From 2007–2011, MOTIE managed the Gambia Priority Employment Programme as a response to the growing rate of unemployment among youth (UNESCAP, 2019). Through policies and programmes, the initiative aimed to strengthen a skilled workforce and create jobs in the formal and informal economies. However, the programme is no longer functional (ibid.).

The Labour Department, as part of MOTIE, also developed a Labour Market Information System based on the 2012 Gambia Labour Force Survey. The online database contains various data on employment at the national level, nevertheless, it faces maintenance challenges and is not currently active (Republic of the Gambia, 2019).

The Gambian Labour Act of 2007 further details legislation regarding employment and the rights of workers. According to the Labour Law of 2007, the Commissioner of the Department of Labour is responsible for the implementation of the Act and specifically in establishing and maintaining an employment service designed to bring together persons offering and seeking employment, including, at minimum maintaining a register in Banjul of persons seeking employment. The service should attract users, both employers and jobseekers in Banjul and throughout the Gambia. However, the Act is in the process of being updated and revised by MOTIE and the Department of Labour (Sanneh, 2019).

Currently, the Government of the Gambia does not offer mandated or optional pre-departure orientations for potential migrants.

#### *National, international, regional and bilateral frameworks related to labour migration*

With regards to domestic legislation, foreign workers' obligations and procedures to follow in the Gambia are based on provisions found within the Immigration Act of 1965, the Labour Act of 2007 and the Payroll Act. Although the Labour Act does not explicitly mention foreign workers, government authorities have stated that the rights and protections outlined in the Labour Act also pertain to these workers (IOM and ICMPD, 2015).

The Payroll Act furthermore contains certain stipulations regarding hiring foreign workers in the Gambia, including: an annual tax to be paid by an employer who hires foreign workers; a supplementary fee in addition to this tax at the rate of GMD 10,000 (USD 224) for ECOWAS citizens and GMD 40,000 (USD 896) for non-ECOWAS citizens; and a quota for employers to be able to employ a maximum of 20 per cent foreign workers (this can be exceeded if the company is able to justify that no qualified Gambian national can be employed for a specific position) (IOM and ICMPD, 2015).

In the Gambia, the Trafficking in Persons Act was established in 2007 and amended in 2010. This Act includes in its definition of trafficking in persons, “the recruitment of, provision of, transportation of, transfer of, harbouring of, receipt of, or trading in, persons...for the purpose of exploitation within or across national borders” (Republic of the Gambia, 2007a) as well as, “placement for sale, bonded placement, temporary placement, placement for service, where exploitation by another person is the motivating factor...” (Republic of the Gambia, 2007a), thus establishing a direct link between labour recruitment, placement (which could be disguised under the auspices of seemingly formal recruitment) and trafficking in persons. This Act furthermore established the National Agency against Trafficking in Persons, which is given the function to, “monitor the immigration and emigration patterns of the Gambia and secure the prompt response of the police and other law enforcement agencies where necessary” (ibid.), which would equally imply monitoring both incoming and outgoing labour migration patterns.

With regards to international legislation, the Government of the Gambia has currently ratified the following conventions and agreements.

- The United Nations Convention against Transnational Organized Crime (2000) and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Smuggling of Migrants by Land, Sea and Air;
- The International Covenant on Civil and Political Rights (1966);
- The International Covenant on Economic, Social and Cultural Rights (1966);
- The Convention on the Elimination of All Forms of Discrimination against Women (1979);
- The Convention on the Rights of the Child (1989).

The Gambia has currently ratified 8 ILO Conventions<sup>5</sup> (ILO, 2019b). However, it has not yet ratified several ILO Conventions important for ethical labour recruitment and protecting the rights of migrant workers, including the Private Employment Agencies Convention 1997 (No.181), the Domestic Workers Convention (No.189), Migrant Workers Supplementary Provisions Convention 1975 (No.143) and the Migration for Employment revised Convention (No.197) (IOM, 2018a).

On the regional level, the Gambia is bound by ECOWAS texts including the ECOWAS Treaty (1975) and its subsequent protocols, such as the Protocol on Free Movement of Persons, Residence and Establishment (ibid.).

With regards to MOUs and BLAs implemented by the Government, the only BLAs currently recognized in the Gambia are those signed with the United Arab Emirates and Qatar. The country has drafted several other MOUs and BLAs as detailed below:

<p><b>Gambia–United Arab Emirates</b></p>	<p>Signed an MoU with the United Arab Emirates on labour migration on 15 July 2019. The objective of the MoU is to enable Gambians to travel on a regular status to the United Arab Emirates for domestic work. A Protocol on Domestic Workers was annexed to the MoU, stipulating the need for cooperation between the two parties to ensure that the recruitment of Gambian Domestic Workers to work in the United Arab Emirates following specific stated measures, such as cooperation in strengthening counter-trafficking efforts and the regulation of PEAs so that only formal PEAs may recruit and send Gambians to work in the United Arab Emirates.</p>
<p><b>Gambia–Taiwan Province of the People’s Republic of China</b></p>	<p>Signed a BLA in 2012. The agreement deals with cooperation on immigration affairs and measures to combat and prevent trafficking in persons (IOM and ICMPD, 2015).</p>

<sup>5</sup> These Conventions include the Forced Labour Convention, 1930 (No. 29); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); and the Worst Forms of Child Labour Convention, 1999 (No. 182).

<b>Gambia–Qatar</b>	The Gambia and Qatar signed an MoU in 2010 aiming to facilitate Gambian nationals' access to the Qatari labour market and the recruitment of skilled Gambians to work in Qatar in line with international standards of employment (IOM, 2017b). As per the MoU, MOTIE was supposed to be in charge of facilitating medical exam procedures, obtaining passports, permission to travel and providing information regarding work conditions and living standards in Qatar (ILO, 2019c). As part of the MoU, employers were in charge of paying all fees associated with recruitment including transportation. MOTIE received over 12,000 applications from Gambian workers interested in employment in Qatar. However, Gambian workers were never sent officially as part of the BLA since it was never implemented.
<b>Gambia–Lebanon</b>	During a fact-finding mission for the repatriation of Gambian domestic workers from Lebanon in 2014, NAATIP was in discussion with the Government regarding drafting an MoU. The MoU never materialized.
<b>Gambia–Italy</b>	In 2010, a BLA was signed to combat irregular migration (IOM and ICMPD, 2015). Furthermore, a security cooperation agreement on irregular migration and trafficking in persons was signed and in 2013 reinforced through capacity-building training for immigration personnel (IOM, 2017b).
<b>Gambia–Senegal</b>	Signed an MoU in December 2013 with the National Committee Against Trafficking in Persons of the Republic of Senegal to fight cross border trafficking crimes between the two countries. Also signed an agreement on preferred entry and stay (IOM, 2017b).
<b>Gambia–Spain</b>	In 2006, signed Framework Cooperation Agreement on Migration and Development to address irregular migration, encourage formal recruitment of nationals and meet the needs of companies and employers in the host country. Negotiations for a Social Security Agreement are ongoing (IOM and ICMPD, 2015).

### Private Employment Systems

Both formal agencies and informal agencies function in the Gambia. MOTIE does not keep track or have a formal list of all registered agencies, nor does it have an estimate on how many informal agencies are currently functioning in the Gambia (Dampha, 2018). There also have not been any studies conducted specifically on labour recruitment in the country. Despite the lack of research and accurate data to estimate the number of agencies functioning in the country, the majority of stakeholders interviewed for the research reported that evidence shows informal agencies and agents vastly outnumber formalized agencies.

A number of private recruitment agencies exist that cooperate with the Government; these agencies have websites and are established businesses. There are also informal private recruitment agencies which are often disguised as tourism, travel, human resources or other related employment services. It is also evident that other informal recruitment occurs through individuals who recruit through social or familial networks.

Some agencies also offer pre departure orientations to Gambian nationals going to work abroad. As a part of their orientation, some formal agencies in the Gambia may also provide their clients with a number they can call in case of emergency or issue with their job, employer, or other. No information has been gathered on informal agencies and whether they conduct pre departure orientations prior to Gambian migrant workers abroad.

Three agencies were interviewed in the Gambia for the purpose of this research.<sup>6</sup>

**Recruitment Agency 1** categorizes itself as a job placement and employment service and transitioned into a full-fledged private recruitment agency in 2019. The agency is registered with the Ministry of Justice as a sole proprietorship. It also works regularly with MOTIE to place potential jobseekers as well as recently signing an MOU to establish a new online platform for jobseekers as part of the newly renovated public employment service. The agency works primarily at the national level. Outside of the Gambia, it has only placed two jobseekers in Senegal. The agency mostly places candidates in higher skilled sectors such as accounting, finance, human resources, marketing and security services. The agency also has only placed Gambian nationals, although it has received inquiries and CVs from jobseekers of Nigerian and Ghanaian nationality. The agency mostly advertises through bulk SMS, social media channels including WhatsApp, Facebook, LinkedIn and Twitter and by traditional advertising methods such as posters and billboards.

The director of the agency recognizes the need to provide more job opportunities for disadvantaged youth. In this vein, the agency launched an initiative targeting young Gambians lacking education or skills. The programme seeks to provide youth with job matching, counselling and mentoring, professional development assistance and facilitation of apprenticeship and internship positions with companies. The agency also launched a coaching and placement programme designed to support returned migrants in the Gambia in finding employment. The programme aims to facilitate returnee reintegration into their home society while simultaneously providing a competent and motivated workforce for local employers.

**Recruitment Agency 2** is a private recruitment and employment agency that functions both as an interim and direct recruitment agency at the national level. It recruits directly for employers in the private sector, public sector and for individuals. Services provided include job matching, formal offer and placement and counselling and training. The agency is fully licensed and approved by the Government. It is registered with the Registrar of Businesses at the Ministry of Justice and the Gambia Public Procurement Agency (GPPA).

The agency has placed mostly Gambians and several foreign nationals from Guinea, Liberia, Senegal and Togo domestically. The agency maintains an online database of job applicants and recruits for mainly lower skilled occupations in hospitality and tourism, domestic services, construction, transportation services, carpentry, security and plumbing. It also offers training to jobseekers during the placement period. It also provides all jobseekers with a phone number to call in case of emergency or if they experience issues with their employer on the job.

**Recruitment Agency 3** is a job portal which operates primarily via Facebook. Through the portal, jobseekers can find out about open employment positions and apply to them directly. It does not recruit candidates directly, rather it provides a platform on which candidates and employers can connect. Its services are free of charge to use and it also provides consultation services to jobseekers, including assistance in editing Curriculum Vitae, writing cover letters and preparing for interviews. So far, only 50 candidates have found positions through the portal, all of which are based in the Gambia. It is not formally registered as a business entity with the Government, but the director aims to transform and formalize it into a full-fledged recruitment agency and human resources consulting business in the near future.

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<sup>6</sup> For legal and other purposes, these organizations will be kept anonymous and referred to as "Recruitment Agency 1, 2, 3", etc.



## Regulation of Labour Recruitment and Private Recruitment Agencies in the Gambia

In the Gambia, the Government has not yet put in place a regulatory framework for the licensing and monitoring of private recruitment or employment agencies. A specific licensing process for private recruitment agencies does not exist. Private recruitment agencies can register as businesses with the Registrar of Companies at the Ministry of Justice; however, registration is optional and not required or enforced (IOM, 2019d).

The Department of Labour employs labour officers to conduct workplace inspections of businesses. This applies to formal and registered private recruitment agencies if they do not possess a certificate of exemption. The provision of Section 145 of the Labour Act 2007 allows the Government to regulate PEAs' activities and to register them accordingly – this section specifically allows the Secretary of State to “make regulations for the better carrying into effect of the provisions of the Act” (Republic of the Gambia, 2007b). Furthermore, Section 3 (4) of the Act also empowers the Secretary of State to “make regulations to set out terms and conditions for employment of persons in domestic service” (ibid.).

Under current circumstances, MOTIE does not regulate or monitor private agencies nor the contracts they offer to jobseekers. On one instance in 2013, MOTIE was approached by a Lebanese national who was seeking advice to establish an agency to send Gambian domestic workers to Lebanon through a partner agency in Lebanon. MOTIE refused to endorse the agent or assist in visa facilitation but later found out that the agent had sent Gambians to Lebanon to work irregularly despite their refusal (Dampha, 2018). In addition, pre departure orientations are not currently mandated by law nor facilitated by any government office.

### 2.2.3. Non-State Actors and Labour Migration

Trade unions in the Gambia are numerous and relatively active. Currently, over forty trade unions function in the country yet there is no collective platform for their organization (*The Point*, 2016). According to the ILO, trade unions are numerous but lack unity, organization and human resources capacities to address employment and worker's rights related issue (ILO, 2015). Some also lack complete understanding of their rights and obligations as stated in the labour law (*Voice Gambia*, 2019).

The Gambia National Trade Union Congress (GNTUC) is the largest trade union representing the rights of Gambian workers. The GNTUC seeks to promote fair employment practices, fight against poor working conditions, worker exploitation, unlawful and unfair employment contracts, or their terminations (GCCCI, 2019). The Gambia Labour Congress (GLC) is another trade union representing workers' rights at the national level. The Gambia Trade Union Bureau (GAMTUB) also works to promote workers' rights, specifically against “frequent and unfair labour practices perpetuated by unscrupulous employers”.

The Gambia Chambers of Commerce and Industry (GCCCI) is the recognized employers' association at the national level. The GCCCI facilitates business development, promotes trade and advances the interest of the Gambian businesses and provides services such as business plan development, advisory services, training and capacity-building, networking and business incubation (GCCCI, 2019).

### 2.2.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations

The above sections shed light on a number of barriers stakeholders face to promoting ethical recruitment and protecting migrant workers in Nigeria. Specific challenges and recommendations are discussed below.

### Revitalize the current public employment system.

Public employment services that exist in the country grapple with matching the large demand and providing positions for all current jobseekers, due to the high percentage of unemployment. In addition, they only provide services in person at their offices in Banjul, and to date, there is no existing government run online job portal to facilitate employment and labour recruitment services. These factors combined have led many Gambian citizens to seek employment through private recruitment services instead. It would thus be beneficial for the Government to modernize the public employment system to facilitate the enrollment and recruitment processes and provide services to more jobseekers.

### Establish a regulatory framework for private labour recruitment.

It would be useful for the Government to implement legislation to regulate the activities of private recruitment agencies and a penal code to penalize agencies caught operating without a license. Since registration as a business entity is also not mandatory for private recruitment agencies, this lowers incentive for formalization and contributes to creating an environment where informal agencies and their activities can flourish. In addition, labour inspectors are not required to monitor recruitment agencies and evaluate contracts, both within the Gambia as well as for positions abroad. These factors combined allow informal agencies and agents to continue their activities without concern for being apprehended. As already stated, Sections 145 and 3(4) of the Labour Act of 2007 give the Government, specifically the Secretary of State, the opportunity to develop legal instruments to regulate PEAs' activities and establish precise terms and conditions for employment of domestic workers; these provisions are not used. Furthermore, the Labour Act of 2007 does not in its current form contain provisions specifying procedures for the recruitment of Gambians to work abroad nor for the protection off all Gambian migrant workers prior to departure, during transit and at destination countries upon arrival.

### Ensure centralized government coordination on labour migration management.

It would be advantageous for the Government to enhance centralized coordination on labor migration management as currently coordination and responsibilities on these issues are divided among several key government ministries and departments (MELR, DOL, Gambia Police Force, NAATIP). The division of responsibilities related to labour migration management have led to difficulties in enforcement and accountability, especially for labour migration and the protection of the rights of Gambian workers abroad.

### Increase international cooperation with other countries through migration-related MOUs and BLAs.

It would be beneficial for the Government to initiate negotiations with popular destination countries for Gambian migrants to develop BLAs/MOUs related to migration and migrant worker protection. The Gambia has signed only a few BLAs and MoUs with migrant destination countries. According to respondents from the Government, this stems partially from the limited understanding and experience with drafting and implementing BLAs and other labour migration related agreements and policies, as well as inadequate funding and resources to do so; a lack in coordination among governmental entities in drafting and signing these agreements is also a contributing factor.

### Ratify key international conventions.

It would be beneficial for the Government to ratify key international conventions related to the rights of migrant workers, including the Private Employment Agencies Convention 1997 (No.181), the Domestic Workers Convention (No.189), Migrant Workers Supplementary

Provisions Convention 1975 (No.143) and the Migration for Employment revised Convention (No.197) (IOM, 2018a). The ratification of these conventions is key in ensuring the protection of both migrant workers in the Gambia and of Gambian migrants abroad, as well as in providing essential standards to which all entities undertaking labour recruitment practices should adhere.

### Spread public awareness of the risks posed by informal labour recruitment and its links to trafficking in persons and exploitation.

As in the other case study countries, there is a lack of general awareness among the populace, especially potential future migrants, of the difference between formal and informal agencies and the risks associated with using the services of informal agencies. Informal recruitment undertaken by informal agencies can not only result in high fees paid by jobseekers, but can also heighten the risk of jobseekers being subjected to trafficking in persons and migrant smuggling; as their recruitment and employment process is unregulated, this allows traffickers and smugglers to operate more freely both on domestic and international levels. It would thus be favourable for the Government to organize awareness-raising campaigns on the risks of informal recruitment and information on how to find employment through licensed and regulated PEAs.

## 2.3. Ghana

In Ghana, the Government currently regulates the activities of private recruitment agencies and international labour recruitment in general, mainly through mandatory registration for Private Employment Agencies (PEAs). Ghana also has an umbrella organization representing the interests and concerns of private employment agencies at the national level, the Ghana Association for Private Employment Agencies (GHAPEA). The GHAPEA advocates on issues affecting the operations of its member for the necessary state action. The Government, through the relevant state agencies, also provides a pre-departure orientation for recruited labour migrants.

Since the implementation of the ban on direct-to-home labour migration to countries in the Gulf region in May 2017, anecdotal evidence suggests that potential migrants willing to travel to those countries continue to do so through informal agencies. The operations of these informal or illegal agencies cannot be fully monitored by the Ministry of Employment and Labour Relations (MELR) and the Labour Department (LD) due to limited logistical capacity and the fact that these illegal entities are widely dispersed; they are also not stationed in any particular location.

### 2.3.1. Situational Analysis

#### *In-migration to Ghana*

The majority of migrants in Ghana come from the African continent. As of 2019, approximately 466,000 international migrants were present in Ghana, constituting thus 1.5 per cent of the total country population (UN DESA, 2019). Main countries of origin include: Togo (21.8%), Nigeria (16.9%), Côte d'Ivoire (15.6%) and Burkina Faso (14.2%) (ibid.). According to border statistics from the Ghana Immigration Services, Europeans constituted the largest group of non-African arrivals (15.3%), followed by North Americans (9.7%), between 2000 and 2007 (IOM, 2017).

The recruitment of migrants to Ghana is not very common. Most migrants travel on their own with the facilitation of a recruitment agency to work in agriculture and trade sectors (Teye, 2018). In 2013, 43 per cent worked in agriculture, forestry, and fishing, 28 per cent in wholesale and retail and 11 per cent in manufacturing (Teye, 2018b) Most foreign workers in Ghana are low-skilled and work in the informal sector, while a select few work for multinational companies (ibid.). The recruitment of highly skilled foreigners for employment in Ghana usually occurs directly via companies rather than through PEAs (Teye, 2018).

The exception is a small community of Chinese migrant workers, reaching over 50,000 in 2013, who were employed in the gold mining industry (Teye, 2018b). The mining laws of Ghana reserve artisanal and small-scale mining for only Ghanaians, but many Chinese workers have moved to Ghana to work irregularly in the small-scale gold mining sector. While small-scale mining is not new in Ghana, migrant workers from China have also expanded to large-scale mining (Badasu et al, 2017).

### *Out-migration from Ghana*

Today, the majority (71%) of Ghanaian migrants reside in ECOWAS countries (Burkina Faso, Côte d'Ivoire, Mali, Nigeria, Togo) and are migrant workers who migrate independently rather than being recruited by a specific agency or company. Since ECOWAS guarantees visa-free movement for nationals of the region, migrating to these countries is easier and often facilitated through familial and social networks. After ECOWAS countries, the most important countries of destination for Ghanaians are the United States (7.3%) and the United Kingdom (5.9%). Migrants to these countries follow familial and social networks; they are recruited by multinational companies, migrate on their own, or through an agency.

Recent studies, however, have indicated through qualitative data that the number of Ghanaians migrating to the Gulf countries for employment opportunities has significantly risen in recent decades (ITUC-Africa, 2018). A growing number of Ghanaians migrate to countries in the Gulf and the Middle East, including Jordan, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, though accurate quantitative data regarding these migrants is not yet available. Emerging countries of destination also noted by Ghanaian national authorities include India, Hong Kong Special Administrative Region, China and various other countries in South-East Asia (IOM and ICMPD, 2015).

In the Gulf States, the kafala sponsorship system has been directly associated with forced labour and incurred debt for migrant workers, especially for women in domestic work (FES, 2015). Under the sponsorship system and law of the specific country within the Gulf Cooperation Council (GCC) member countries, most migrant workers' immigration statuses are tied to one single employer, who has the right to confine the worker to the house without their consent and restrict their freedom of movement (Kafa, 2011). Domestic workers in these countries are thus some of the most vulnerable workers with lack of protection and legal redress.

### *Labour Recruitment: Identified trends and issues*

Migrant workers are recruited by both formal and informal<sup>7</sup> agencies and agents. The Ghana Immigration Service publishes yearly reports detailing statistics on regular and irregular labour migration flows, which do not take into consideration labour recruitment. The main data source regarding the number of migrant workers utilizing formal PEAs' services as well as other relevant information (migrant workers' employment sectors, countries of destination, etc.) originates from data collection undertaken by formal private recruitment agencies. Due to these gaps, it is difficult to determine the proportion of migrants utilizing the services of informal as opposed to formal agencies, as well as informal agents, visa facilitators and social or family networks. The data is also insufficient to accurately portray the sectors and countries in which migrants were employed as related to the means by which they were recruited.

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<sup>7</sup> All informal agencies and agents are recognized as illegal by the Republic of Ghana; the number of formal PEAs within Ghana is kept up to date with the Labour Department.

Although migrant workers were not interviewed for this research, testimonies of Ghanaian migrant workers were gathered from the IOM report on Ghanaian Domestic Workers in the Middle East; these testimonies suggest that a number of risks and dangers are associated with both national and international labour recruitment when informal agencies are used for recruitment (IOMa). Workers recruited for international labour have experienced abuses ranging from physical and emotional abuse to extortion and fraudulent or insecure contracts (Teye, 2018b). Some migrants were unable to pay the agencies fees and were thus forced to give up their first few months' salaries in order to pay back their debts (FES, 2015).

Additionally, recruitment through informal agents seems to also be prevalent in centres of worship, notably churches. Pastors and church leaders have been known to identify young girls and boys without sources of income and set them up with informal brokers (Migrating Out of Poverty, 2017a). For pastors, the recruitment of young members can be a financial incentive to encourage them to go abroad and then send money to support the church (Teye, 2018). Thus, churches may view labour recruitment as an expansion of the congregation and its associated faith (ibid.).

High recruitment fees is a key characteristic of informal agencies. A recent study by Friedrich-Ebert-Stiftung (FES), interviewed migrants who reported paying from USD 1,000 to 10,000 in recruitment fees and even higher fees for international employment (FES, 2015). Fraudulent advertisements for job opportunities are also rampant, including false advertising of information about salaries, working conditions and destination countries.

Furthermore, a significant risk associated with informal recruitment is trafficking in persons and other forms of exploitation. Both women and men recruited by informal agencies to work abroad, often in the Gulf countries or in neighbouring African countries under the pretext of transiting through these countries en route to Europe, are reported to have been exploited, held involuntarily and extorted for money by traffickers. As recruitment occurs informally (often through the use of internet platforms), both the recruitment and employment conditions go unregulated, therefore putting jobseekers at risk of exploitation and abuse (US Department of State, 2019). Therefore, it is apparent that informal recruitment puts migrant workers at higher risk of abuse and exploitation, including becoming victims of trafficking in persons.

### 2.3.2. Labour Migration Management at the National Level

#### *Roles and Responsibilities of Government Offices*

In Ghana, the Ministry of Employment and Labour Relations (MELR) and the Labour Department (LD) facilitate the mainstreaming of labour migration and international labour recruitment issues. For example, along with other stakeholders, they spearheaded the development of the National Labour Migration Policy (NLMP), which was validated in December 2018. The NLMP was presented by MELR to Cabinet and the National Development Planning Commission (NDPC) and has been approved for implementation. LD, being the technical wing of the Ministry on labour issues, enforces existing labour laws and regulations relating the management of labour migration (IOMb). These include registering and monitoring of national and international recruitment agencies.

In addition, the Acting Chief Labour Officer (Ag. CLO) is on the Quota Committee that deliberates on the maximum number of work permits for non-nationals. The Ag. CLO also ensures that non-nationals do not displace Ghanaians in the labour market and that migrants are not discriminated against in the workplace. According to the Ag. CLO, LD secures and manages foreign job opportunities for Ghanaians and places prospective migrant workers nationally via PECs and internationally via PEAs. They also offer vocational counselling for jobseekers, facilitate mainstreaming of labour migration issues and labour recruitment by collaborating with agencies policy developing policies related to migration. Generally, the labour department enforces decent

work standards through the facilitation of bilateral agreements, collective agreements and issuing of collective bargaining certificates to workers' unions.

In May 2017, the Government implemented a ban on all migration for employment to Gulf countries due to a significant increase of reported cases of abuse faced by migrant workers, namely from Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (*Africa News*, 2017). After videos of Ghanaians and other African domestic workers being abused by employers and living in abhorrent conditions surfaced on social media and caused public outcry, the Government decided to halt all legal flows. According to the Government, the ban aims to serve as a catalyst to formalize relations and initiate the drafting and coordination of MOUs and eventual bilateral labour agreements (BLAs) with Gulf countries in order to regularize labour migration. Currently, the Inter-Ministerial Steering Committee on Migration (IMSCM) is awaiting feedback and subsequent information on international labour recruitment from the various Ministries, consulates abroad, as well as governments of certain Gulf countries. The IMSCM leads a marked effort to improve management of international labour migration. However, an interview with the Acting Chief Labour Officer, revealed that LD is unsure of when the ban will be lifted.

In addition to the aforementioned government institutions and two interministerial entities help better regulate labour migration within Ghana. These entities consist of: the Immigrant Quota Committee,<sup>8</sup> which assesses work permit applications from foreign nationals wanting to work in Ghana before providing recommendations to the Minister of the Interior for the issuance of work permit and chaired by the Deputy Minister of Interior; and the Human Trafficking Management Board, which provides policy guidance on trafficking in persons-related concerns and is chaired by the Deputy Minister of Gender, Children and Social Protection, previously known as the Ministry of Women and Children's Affairs (IOM and ICMPD, 2015).

### *Public Employment Systems and Labour Migration Management*

In Ghana, MELR is responsible for employment policy coordination, at both national and international levels. The Labour Department, on the other hand, regulates the labour market to ensure decent work outcomes. Public Employment Centres (PECs) established under the Labour Act, 2003 (Act 651) facilitates job matching processes by registering and placing jobseekers within the country, undertaking employment promotion activities as well as career counselling and vocational guidance. However, PECs currently do not play a significant role in the recruitment of Ghanaian workers for employment abroad. The Labour Act, 2003 (Act 651) restricts their functions to internal job placement. Irrespective of this, the Government of Ghana has facilitated international labour schemes with other countries on few occasions. In 2006 for example, IOM assisted the Labour Department to implement a pilot project for the recruitment of workers for employment in Italy through the AENEAS project (IOM and ICMPD, 2015). The AENEAS project aimed to facilitate coherent migration management by promoting regular migration and preventing irregular migration from Ghana, Nigeria and Senegal and the Libyan Arab Jamahiriya (IOM, 2009c).

The Labour Act (2003) also liberalized labour recruitment from solely the public sector to be legally carried out by private employment agencies. In addition, the Labour Department cooperates with Private Employment Agencies, which recruit and facilitate employment at both national and international levels. The LD also oversees their registration and monitoring

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<sup>8</sup> Despite the title of this entity, labour immigration in Ghana does not follow a quota system in the sense of implementing limits on the amount of work permits issued; this rather refers to the fact that the Committee has the right to set a limit on the number of foreign workers employed by a specific employer. (IOM – ICMPD (2015))

(further discussed in Section 2.1.4). Subsequently, in 2016 the MELR developed the Ghana Labour Market Information System (GLMIS), an online platform that connects jobseekers to employment vacancies in public and private sectors nationally and keeps track of Ghanaians who migrate to work abroad, though it is not yet functional (Korteley, 2018). The GLMIS also lists currently licensed national and international PEAs. As part of the system development processes, MELR piloted the GLMIS after conducting trainings for labour inspectors on its use in November 2018 (ibid.). As of present, the system has been developed and some officers have been trained. Even though the system is not currently opened to the general public, it allows for employers to post vacancies and for prospective jobseekers to browse for opportunities.

Pre departure orientations (PDOs) are compulsory and undertaken by the Labour Migration Unit of the LD; all registered PEAs are required to send future migrant workers to the LD for a mandatory hour-long pre-departure training. The training or orientation focuses on life skills, work and country expectations and ensuring the worker understands his or her contract. Notwithstanding this training, several PEAs reported that workers raised concerns about the mandated orientation, and its focus on workplace expectations and understanding of the contract over emphasis on worker's rights and how to address work related concerns abroad. In addition, no official hotline exists for migrants abroad to call in case of distress. Migrants only receive the phone number of Assistant CLO or of other labour officers working in the Labour Migration Unit for emergency purposes (Dawda, 2018). Prior to the ban, MELR had been working on developing a dedicated hotline but the project is yet to be finalized. IOM Ghana has developed a directory for assistance to Ghanaian victims of trafficking and vulnerable labour migrants in Iraq, Kuwait, Lebanon and Saudi Arabia that provides guidance and information necessary to first responders to effectively deliver assistance. It has also developed SOS cards for prospective migrants in their transit or destination countries (IOM, 2017c).

#### *National, international, regional and bilateral frameworks related to labour migration*

In terms of national legislation, the Government of Ghana has implemented the following key provisions related to labour recruitment and labour migration.

The key legal instrument for the regulation of PEAs is the Labour Act of 2003 (also known as “Act 651”). This Act provides an assortment of protections as well as obligations for all workers present within Ghana without distinction between locals and foreign nationals:

- Article 1: “This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526)” (Republic of Ghana, 2003).

The access of foreign nationals to the Ghanaian labour market is furthermore regulated by the Immigration Act of 2000 (“Act 573”), which outlines the duties of the Immigrant Quota Committee as well as the conditions for the deliverance of a work permit and the Immigration Regulations of 2001 (LI 1691), which stipulates that an employer should submit a work permit application through the Director of Immigration (IOM and ICMPD, 2015). These legislations however do not allow free access to the Ghanaian labour market; as the work permit issued is attached to a specific employer, any change of employer/type of employment must be approved by the Immigrant Quota Committee (ibid.).

The draft National Labour Migration Policy, validated in December 2018, was approved by Cabinet in 2020 and follow-up actions are ongoing to ensure it is successfully implemented (IOM, 2020a).

In Ghana, the Human Trafficking Act was established in 2005, amended in 2009 and accompanied by a set of regulations in 2015. This Act includes within its definition of trafficking in persons, “the recruitment, transportation, transfer, harbouring, trading or receipt of persons within and across national borders” (Republic of Ghana, 2005) as well as, “placement for sale, bonded placement, temporary placement, placement for service, where exploitation by another person is the motivating factor...” (ibid.), thus establishing a direct link between recruitment, placement (which could be disguised under the auspices of seemingly formal recruitment) and trafficking in persons. This Act furthermore established the Human Trafficking Management Board; this entity is given broad functions within the Act, including to “deal with any matter concerned with human trafficking” (ibid.). This function essentially allows the Board to focus on any aspect regarding trafficking in persons that it finds relevant, which could include specifically the link between informal labour recruitment practices and trafficking in persons, both nationally and of Ghanaian citizens abroad.

In terms of international legislation, the Government of Ghana has currently ratified the following conventions and agreements.

- The International Covenant on Civil and Political Rights (1966);
- The International Covenant on Economic, Social and Cultural Rights (1966);
- The Convention on the Elimination of All Forms of Discrimination against Women (1979);
- The Convention on the Rights of the Child (1990);
- 51 ILO Conventions including the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990);
- The United Nations Convention against Transnational Organized Crime (2000) and its protocols on trafficking in persons and smuggling of migrants.

Overall, Ghana has ratified 51 ILO Conventions (although only 37 of these are currently in force in the country) (ILO, 2019b). However, it has not yet ratified ILO Convention 97 Migration for Employment, Migrant Workers 143 (Supplementary Provisions) and the Domestic Workers Convention 181 (ibid.).

On the regional level, Ghana is bound by ECOWAS texts including the ECOWAS Treaty (1975) and its subsequent protocols, such as the Protocol on Free Movement of Persons, Residence and Establishment (IOM and ICMPD, 2015).

Pertaining to the management of Memorandums of Understanding (MOUs) and Bilateral Labour Agreements (BLAs) on labour migration, the Government of Ghana has signed several with few countries. Previously, BLAs were also concluded with the UK and Jamaica pertaining to the labour mobility of nurses for employment, but these are no longer in use (IOM and ICMPD, 2015).

The MELR is also currently in the process of developing a standard BLA they can introduce to countries in the Gulf region, before they lift the ban on labour migration (Korteley, 2018). They recently signed an MoU with Qatar in November 2018.



Recently signed MOUs and BLAs with provisions on migration are detailed below:

<b>Ghana–Qatar</b>	Signed MoU in November 2018. The MoU provides for migrant protection, harmonized rates and hours of work, especially for domestic workers.
<b>Ghana–Hungary</b>	Drafted in 2015, in the aim of increasing cooperation in the field of education in both countries, specifically direct cooperation between higher education institutions (ILO, 2019c).
<b>Ghana–Mauritius</b>	Signed Bilateral Cooperation Agreement in 2018 to enhance cooperation on diaspora engagement, circular and labour migration. A high-level visit of Mauritian officials to Ghana also took place from 9–13 September 2019 (IOM, 2018e).
<b>Ghana–Lesotho</b>	In the process of drafting agreement to enhance cooperation on diaspora engagement (IOM, 2018e).
<b>Ghana–Jordan</b>	Signed BLA on labour issues between the two governments in December 2016, to facilitate the movement of domestic workers specifically, but a full agreement was not implemented (Teye, 2018b).
<b>Ghana–Italy</b>	BLA concluded with Italy in 2010. The agreement focuses on border management in order to enhance the capacities of Ghana’s law enforcement agencies on irregular migration and trafficking in persons (IOM and ICMPD, 2015).
<b>Ghana–Spain</b>	Drafted labour migration agreement (IOM, 2009).
<b>Ghana–Libya</b>	Drafted labour migration agreement (IOM, 2009).

### Private Employment Systems

According to the Ghana Association for Private Employment Agencies (GHAPEA), the association that groups registered PEAs in Ghana, there are currently 69 registered agencies for international labour recruitment, 215 registered agencies for local labour recruitment, and approximately 200 informal and unlicensed agencies, including middlemen and syndicates, operating in Ghana (Teye, 2018). A list of licensed agencies operating at the national and international levels and their contact information is available online on the [GLMIS website](#) (Republic of Ghana, 2019).

The Ghanaian government formally requires all PEAs to be registered with the Registrar General’s Department and licensed by the LD, as per the 2003 Labour Act and the 2007 Legislative Instrument (Republic of Ghana, 2015). According to law of Ghana, registered PEAs must specify to be a “body corporate that acts as an intermediary for procuring employment for a worker or recruiting a worker for employment” (ibid.) and “Labour Recruitment” must be spelled out in the nature of their business (IOM, 2019e).

Recent studies, such as the Migrating out of Poverty report on “*Brokerage in migrant domestic work in Ghana: complex social relations and mixed outcomes*” and the ITUC- Africa report on “*Africa Labour Migration to the GCC States: The Case of Ghana, Kenya, Nigeria and Uganda*” have found the number of informal agencies to be increasing. This upward trend has been partially attributed to the growing demand for domestic work in wealthy and expatriate neighbourhoods in Ghana as well in households in the Gulf (Migrating Out of Poverty, 2017a).

One of the main reasons for non-compliance with registration requirements cited by PEAs is the bureaucratic and lengthy registration procedure. In addition, a gap in labour law that also encourages non-registration is the ability to register but not renew the license. For instance, international recruitment agencies may pay the initial registration fee but do not renew their

license once it has expired (Teye, 2018b); the law states that PEAs must reapply for licenses, but sanctions are not enforced if the agency does not comply. Furthermore, provisions for monitoring activities are not apparent in national labour legislation; submission of regular activity reports are required by law but references on monitoring are lacking (IOM and ICMPD, 2015).

The Migrating out of Poverty Research Programme Consortium identified four types of PEAs to be functioning in Ghana (Migrating Out of Poverty, 2017a). Type 1 were categorized as formal fully registered recruitment agencies (registered and with a license to operate); Type 2 were formal partially registered agencies (registered, but with no license to operate), or informal agencies; Type 3 were individual informal brokers and their sub-agents (neither registered nor have a license to operate); and Type 4 were mainly informal middlemen who recruited through social networks made up of friends and family (ibid.).

All registered agencies in Ghana charge fees for jobseekers as part of the registration process to submit their applications (IOM, 2019e), on which no ceilings are set by current national labour legislation (IOM and ICMPD, 2015). According to the Migrating Out of Poverty Research Consortium, Type 1 agencies are registered and licensed with the LD, advertise via formal channels (advertisements in newspapers, social media, websites), take potential employees through registration processes and a formal interview and provide training and counselling. These agencies prefer applicants with at least some educational background (Migrating Out of Poverty, 2017a). Type 2 agencies typically recruit domestic workers for middle- and high-income families in Ghana or international employers, especially in the Gulf. Some are registered. They match workers with employer requirements with less focus on education and emphasize “subservient behaviour, honesty and a decent character” (ibid.). Type 1 and 2 agencies also check credentials, train and counsel migrants about workplace culture abroad and prefer workers of urban origin (ibid.).

Type 3 and 4 agencies are informal. They advertise informally via word of mouth, in places of worship and by recommendations from previously placed workers and family and friends. These agencies also utilize sub-agents to scout rural areas for potential applicants and recruit even for those under 18 years (ibid.). The Migrating Out of Poverty report claimed recruiters in these agencies also develop more personal relationships with potential employees and recruit based on trust, reciprocity and recommendation. Some provide informal training related to domestic tasks, emphasizing behavioural expectations, while assisting candidates with negotiation to ensure they receive reasonable wages for their experience, age and the amount of work to be performed. They also provide informal social protection and risk management (such as paying for travel and accommodation at destination) and act as the potential employee’s guarantor if issues arise) (ibid.).

For the study, five registered recruitment agencies were interviewed in Ghana.<sup>9</sup> All interviewed agencies recruited Ghanaians for jobs internationally and some recruited at the national level as well. In the following section, each agency will be shortly summarized in terms of their method of recruitment, main employment sectors and countries or areas of destination, training or orientation offered, issues identified in their recruitment practices and the impact of the government ban on their business.

**Recruitment Agency 1** is an international recruitment agency that employs an agency-to-agency model and recruits Ghanaian workers for low-skilled professions such as security, transportation, mechanics, hospitality services and higher skilled professions such as teachers and medical nurses. The main countries of destination for the agency are the United Arab Emirates,

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<sup>9</sup> For legal and other purposes, these organizations will be kept anonymous and referred to as “Recruitment Agency 1, 2, 3”, etc.

Qatar and Saudi Arabia. Contracts offered to workers are for two years but can be renewed from abroad or upon return to Ghana. Workers also receive thirty days of vacation per year. The agency offers jobseekers an orientation consisting of life-skills, information regarding work, cultural and behavioural expectations abroad. Potential migrants are also sent to a subsequent mandatory pre-departure training at the LD. The agency has only experienced a few issues with recruitment, notably with employees who finish their contracts prematurely or who are not paid on time. Since the government ban was enacted, the agency has kept the main office in Ghana but moved the bulk of its operations to Sierra Leone (Recruitment Agency 1, 2018).

**Recruitment Agency 2** recruits on both the national and international level. Formally registered with LD, the agency employs an agency-to-company model in employment sectors limited to port logistics and warehousing, for positions such as drivers, machine operators, supervisors, managers, accountants, logistics personnel and manual labourers. The agency has recruited mostly males (99%) to the United Arab Emirates where it works in hospitality and tourism with the Emirates Fares Group. It also supplies workers to firms in Saudi Arabia, in port operations, supply chain management, transportation, warehousing with the Resi Gateway Terminal and SA Talke companies. The agency offers two days of operational training for all workers, including an orientation on the do's and don'ts of the immigration and travel procedure. It is insistent on maintaining communication with workers through WhatsApp groups, which foster solidarity but are also forums for workers to express issues they may experience. The agency reports that the ban resulted in a loss of contracts to other agencies based in India and the Philippines. Though the agency is not able to recruit new Ghanaian workers to send abroad, they assist current workers in the Gulf States to find new contracts so they could stay abroad instead of coming back to Ghana (Recruitment Agency 2, 2018).

**Recruitment Agency 3** is a joint association for youth employment, training and national and international recruitment. The association works directly with a PEA based in Ottawa, Canada. The agency recruits for service-based positions, such as cooks, carpenters, masons, iron workers, hairdressers, mechanics and plumbers. Major destination countries include Australia, Canada, New Zealand and the United States. The agency provides training and collaborates with a team of lawyers who assist workers in case they need assistance, especially for workers sent abroad. Its activities were not affected by the ban as they only send workers to certain countries in Europe and North America (Recruitment Agency 3, 2018).

**Recruitment Agency 4** is a PEA that is officially licensed by LD. The agency employs the agency-to-company approach and works on demand as companies reach out to them with job offers which they match with potential candidates seeking employment through the agency. On the international level, the agency mainly recruits to the United Arab Emirates and Qatar, for employment in security, transportation and construction services with companies such as Teyser Sodexo, Trans Guard, Arabia Taxi United Arab Emirates and Five Security (Qatar). In the past, the agency has recruited to other destinations including Afghanistan, Sudan and the United States. The agency recruits only five per cent of jobseekers for domestic-based jobs, in the hospitality, maintenance and logistics sectors. The agency provides an hour-long orientation preparing the jobseeker to migrate and work abroad in addition to the required training at the LD. It does not provide skills-based training however, as it requires hiring companies themselves to do so. Issues faced by workers have included dire living conditions, delayed salaries, and contract substitution upon arrival. The government ban has caused the agency to temporarily shut down their recruitment activities to the Gulf region (Recruitment Agency 4, 2018).

**Recruitment Agency 5** is an international recruitment agency that is based in London but has opened over 40 offices in Africa, including in Accra, Ghana. The agency is registered with all relevant government bodies and corporate commissions in the countries in which it operates. It also does not charge fees for providing recruitment services to jobseekers, as these are covered by the employer (Recruitment Agency 5, 2019).

In Ghana specifically, the agency recruits both foreigners for placement in Ghana as well as Ghanaian citizens for placement abroad. For those candidates departing for positions outside of their country of origin, the agency offers an orientation consisting of information on work and life expectations and cultural and religious differences. The agency also offers candidates training for some types of jobs, or they ensure training is provided by the employer. It recruits for positions in all employment sectors but has observed increased demand for recruitment in the oil and gas sector and financial technology sectors in Africa. In addition, it has noticed an increased number of diaspora members being recruited for positions in their home countries (Recruitment Agency 5, 2019).

The agency has faced several issues in carrying out recruitment in Africa. Namely, for candidates recruited for jobs outside of their country, the agency is often faced with visa facilitation issues as processing takes long periods of time and there are often delays, which cause candidates to either abandon positions or start later than expected. In addition, the agency has faced issues with candidates terminating their contracts early without notifying the agency first, as well as with candidates not being able to integrate into a new country well due to cultural differences and unmet expectations in the work environment (Recruitment Agency 5, 2019).

### *Regulation of Labour Recruitment and Private Recruitment Agencies in Ghana*

Although Ghana has not ratified ILO Private Employment Agencies Convention 181, MELR requires all PEAs to register and obtain a license as detailed on the 'Registration of Private Employment Agencies' on the [MELR website](#) (Republic of Ghana, 2015). In 2003 and 2007, the Government instituted procedures for the establishment of a PEA, outlined in Section 7 (1–8) of the Labour Act, 2003 (Act 651) and their regulation 3(1–8) of the Labour Regulations, 2007 (LI 1833), which have been complemented by administrative measures.

By law, PEAs are obliged to register with the Registrar General's Department as a corporate entity and are expected to apply to the CLO at LD for a license to operate. Each applying PEA must make an operational coverage security deposit, which is 1000 Cedi for national labour recruitment and 25,000 Cedi (approximately USD 5,180) if recruiting internationally (Republic of Ghana, 2015). The deposit then goes into a consolidated fund and is only used in the case that the agency goes bankrupt or needs to repatriate individual workers from abroad (Kortele, 2018). As part of the registration process, each PEA must provide documents including two contract agreements, one signed between the agency in Ghana and principal employers abroad and one signed between the employer and the employees or jobseekers. Subsequently, CLO commissions to inspect the premises, facilities and staff of the PEA within one month. A request is then made to the Criminal Investigation Department unit of the Ghana Police Service for a background check of the Company, Directors and the Human Resource Officer (Republic of Ghana, 2015). The background check abroad is done by the Ministry of Foreign Affairs and Regional Integration (MFARI) through their consular offices.

For international labour recruitment, the PEA must provide CLO with the following contract documents from the employer: Power of Attorney, Particulars of Employer or Agent Abroad, Information on Employment Offer, Contract signed between Agency in Ghana and Principal Employer or Agent Abroad and a Contract Agreement between the Agency and Employee/Migrant Worker. Upon receipt of these documents, MFARI or the Ghana Mission Abroad determines the country of origin of the employer or agent of the employer recruiting the worker(s), the corporate background and authenticity of the employment offer, scrutinize the contract agreements and question whether the workers have freely consented to the assignment of the contract (IOM Ghana, 2019).

Foreign PEAs must also support workers applying for exit permits by providing the following documents: individual contract documents, a photocopy of medical reports, a photocopy of the passport, a photocopy of the visa and a photocopy of the police clearance. Upon receiving

clearance, a PEA must pay 300 cedi (approximately USD 62) per recruited worker (Republic of Ghana, 2015). By law, the worker is then required to return to Ghana to renew their contract after two years. In the case of exceptional circumstances, the worker must provide documentation if renewing their contract from abroad (Korteley, 2018).

If the PEA satisfies these conditions, they are granted a license for 12 months and must apply for renewal two months prior to its expiration date. Each license may be renewed for a total of 24 months (Republic of Ghana, 2015). International recruitment agencies must submit an additional request to the Ministry for approval in order to renew their license (subsequent regulations for international labour recruitment can be found in the index) (Korteley, 2018). According to the LD, PEAs are responsible for protecting workers and are liable to pay to bring workers back home in case they are abused or put in danger by their respective employer(s).

Registered PEAs are monitored by the LD and MELR. They are obliged to submit quarterly reports (as per the 2007 Labour Regulations) (Republic of Ghana, 2007).

With regard to monitoring informal agencies, the DL and the Ghana Police Service rely on the general public for information, which is then verified and used to locate them. Using this method, the police has been able to track a small number of informal agencies, the heads of which have been arrested for operating without a license.

Several challenges have been identified with the enforcement of these regulations. As the regulatory framework includes only formalized corporate bodies, it does not cover the activities of informal recruiters and intermediaries. Secondly, the bureaucratic registration process and high initial fees (25,000 Ghana cedis) for the license to carry out international labour recruitment discourage many PEAs from registering, especially those only starting their business. Competition between formal and informal agencies is also an intervening factor, as informal agencies do not pay fees nor taxes to the Government and thus can charge lower recruitment fees to jobseekers.

In addition, a gap in labour law that facilitates informal agencies' activities is the partial registration of PEAs. According to a professor at the University of Ghana, some recruitment agencies recruiting internationally pay the initial registration fee but do not renew their license once it has expired; the law states that PEAs must reapply for licenses, but sanctions are not enforced if the agency does not comply. Furthermore, provisions for monitoring activities are not apparent in national labour legislation; submission of regular activity reports are required by law but references on monitoring are lacking (IOM and ICMPD, 2015).

The imposition of penalties and sanctions on PEAs is not frequent. The Ghana Immigration Service (GIS) and the Ghana Police Service can prosecute persons involved in criminal activities such as migrant smuggling and trafficking in persons. This is done in coordination with the Attorney General (AG) during the investigation. The LD identifies, reports to police and gives evidence in court for such cases. According to the LD, PEAs found guilty of breaking the law are fined and may have their licenses revoked. Fines are calculated through a system using penalty units, with one penalty unit costing 12 cedi. Recruiters may also be imprisoned. The minimum imprisonment sentence is 5 years and the maximum 25 years (Ba, 2018). However, if an entity or individual is charged with recruiting without a license and the police can additionally provide evidence that the person had intended to exploit or traffic those recruited, they will be charged with attempted trafficking in persons or 500 penalty units or a fine of 6,000 cedi (approximately USD 1,200) (ibid.).

There are a small number of labour inspectors available to identify, investigate and prosecute informal recruitment agents and those suspected to be involved in trafficking and smuggling of migrants (US Department of State, 2018). MELR recognizes the need to renew the law to ensure penal sanctions are in place to deter informal agencies from exploiting workers. An official from

the Ghana Police Service claims the difficulty lies with finding evidence to incriminate alleged informal recruiters (Ba, 2018). Though prosecution of PEAs is rare, several examples exist. One such agency (SOS Labour), whose workers complained of being abused by employers in Kuwait, had its license revoked in February 2013, though it was then restored in May 2015. In addition, two recruiters were recently arrested for operating without a license and trafficking persons to Saudi Arabia; both were sentenced to seven years in prison (ibid.).

### 2.3.3. Non-State Actors and Labour Migration

The **Trades Union Congress of Ghana (TUC)**, is the main trade union that represents organized labour and workers' rights in key national bodies, institutions and commissions. The TUC is concerned with the development of a legal framework that regulates industrial relations (ILO, 2006). It also promotes rights of workers and government ratification of ILO Conventions on international labour standards and ethical labour laws, including that of ethical labour recruitment. Specifically, they raise awareness about issues confronting both national and foreign workers in Ghana (TUC, 2008). The TUC international affairs committee is specifically involved in issues of international nature related to the labour movement (ibid.). The TUC also published their own pre-departure guide in September 2016, with assistance from Friedrich Ebert Stiftung, which includes information for potential and future migrants. The guide was distributed to future and potential migrant workers as well as replicated in other countries (FES, 2016). Other smaller unions facilitated by the TUC include the Union of Informal Workers Association (UNIWA) and the Domestic Services Workers Union (DSWU) (Migrating Out of Poverty, 2017a).

**GHAPEA**, as mentioned above, is the only association representing PEAs' interests in the country. Their mandate is to provide ethical national and international job placement. The association was established in 2015 and formally inaugurated in 2016 after a parliament committee concluded that an umbrella organization to represent the rights and interest of private employment and recruitment agencies was not yet in existence (Saeed, 2018). GHAPEAs code of ethics and constitution specifically backs up standards of ethical labour recruitment. They also monitor member's activities in accordance with rules and regulations and defend members against potential accusations of trafficking or other exploitation of workers.

GHAPEA aims to promote and strengthen the agency-to-agency recruitment type, in which a private agency in Ghana works directly with a foreign agency abroad. In this agreement, workers are provided with set contracts, hostel type accommodation, regular work hours, vacation days, regular access to facilities, freedom of movement. GHAPEA advocates against the individual-to-individual recruitment method, which it claims is the most informal and puts workers at the highest risk of abuse and exploitation. The association also established a task force in 2016 to fight against the proliferation of informal private agencies and has in the past attempted to coordinate with the Ghana Police Service to stop them at the airport. Since the implementation of the government ban, GHAPEA has also seen a decline in member registration and a stagnation of activities.

**Ghana Employers Association (GEA)** is the representative body for employers at the national level. Its objectives are to promote the interest of employers, represent employers in dealing with the Government and NGOs, as well as keep its members informed of existing laws and practices. GEA also engages in advocacy for labour and social policy issues at the national level (GEA, 2019).

Several CSOs, such as **Migrant Watch** and **Sewa Foundation** collaborate with MELR and LD on issues of ethical labour recruitment and migrant worker protection. Migrant Watch regularly organizes awareness-raising campaigns for potential migrants. SEWA Foundation is active in advocating against human and specifically child trafficking. In 2018, both CSOs facilitated a fact-finding mission to several Gulf States to investigate treatment of Ghanaian workers, where they

established relationships with local recruiters and migrant workers, assisted vulnerable migrants and relayed information regarding their situation to the MELR and Ghanaian consulates abroad.

#### **2.3.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations**

The above sections shed light on a number of barriers stakeholders face to promoting ethical recruitment and protecting migrant workers in Ghana. Specific challenges and recommendations are discussed below.

Increase resources and capacity to operate effectively in the established regulatory framework. It would be beneficial for the LD's and MELR's to increase resources and enhance staff capacity to operate effectively in the established regulatory framework. The LD and MELR have experienced difficulties in monitoring licensed agencies, tracking and arresting unlicensed agents and enforcing legislation concerning PEAs and international labour recruitment. Relevant ministries and stakeholders have also faced difficulties in collaborating to address the above issues, resulting in stratified government engagement on matters related to labour recruitment. For instance, in the licensing process for PEAs, the LD is in charge of the registration and authorization of PEAs, yet MFARI or the Ghana Mission Abroad is responsible for conducting a background check on the employer or agent recruiting the worker(s), the corporate background and authenticity of the employment offer, scrutinizing the contract agreements and questioning whether the workers have freely consented to the assignment of the contract (IOM, 2019e). This stratification of responsibilities between various Ministries for the licensing procedure of PEAs may slow down the process. Thus, it would also be advantageous for the Government to enhance interagency coordination on addressing issues related to private labour recruitment.

##### **Increase scope of the mandatory pre-departure orientation at the LD.**

According to a number of PEAs, workers have raised concerns that the mandated pre-departure orientation at the LD has placed emphasis on workplace and life expectations and the workers' understanding of the contract over the explanation of workers' rights and information on addressing work related concerns abroad. It would thus be favourable for the LD to ensure the orientation is comprehensive and increase its focus on workers' rights as well as potential issues they could face while working abroad.

##### **Modernize and update the current public employment system.**

Government services such as PECs and Migrant Resource Centres function, but these services do not have automated systems for capturing labour market data nor an online portal for jobseekers, thus benefiting only those that can physically visit their offices, which limits the number of jobseekers that can be assisted. Subsequently, they capture data only through labour inspection and canvassing, which affects the quantity of data that can be captured and stored (IOM, 2017c). It would thus be useful for the Government to modernize these services, so as to assist more jobseekers and facilitate the recruitment and placement processes.

##### **Increase support for migrants through missions and consulates abroad.**

Outside of Ghana, consulates and labour attachés do not have enough resources and capacity to support Ghanaian migrant workers in destination countries. In addition, though Ghanaian migrant workers are obliged by the LD to report to and register at the mission or consulate in the host country, few actually do so, for instance for reasons such as the irregularity of their status in the host country. As many consulates are unaware of the workers' presence, they are unable to support them. It would thus be beneficial for consulates and missions abroad to increase their outreach and facilitate engagement with migrants originating from their respective

country of origin living in the destination country, for example by allowing migrants to register online if the person is not able to come to the mission in person.

### **Ratify key international conventions.**

It would be advantageous for the Government to ratify and domesticate key international conventions related to the rights of migrant workers, including ILO Convention 97 Migration for Employment and Convention 143 Migrant Workers (Supplementary Provisions) (IOM, 2018f). The ratification and domestication of these conventions is key in ensuring the protection of both migrant workers in Ghana and of Ghanaian migrants abroad, as well as in providing essential standards to which all entities undertaking labour recruitment practices should adhere.

### **Spread public awareness of the risks related to informal labour recruitment and its links to trafficking in persons and other forms of exploitation.**

Other barriers to ethical labour recruitment in Ghana include the lack of awareness among potential and future migrants. According to respondents, migrants are generally unaware of the registration or legal status of an agency or of common practices employed by informal agencies. Potential migrants also lack information on current work opportunities abroad and are not informed of the difference between formal and informal recruitment agencies, including ethical recruitment standards such as the Employer Pays Principle. Informal recruitment and limited capacity for regulation of labour recruitment and labour migration in the country has heightened the risk of jobseekers being subjected to trafficking in persons and migrant smuggling. It would be useful for the Government to organize awareness-raising campaigns on the risks of informal and unethical labour recruitment and information on how to find employment through formal and licensed PEAs.

## **2.4. Nigeria**

Among the case study countries, Nigeria is the most advanced in terms of having a strong regulatory framework to govern private recruitment agencies. For instance, all licensed PEAs recruiting internationally must send candidates to a mandatory pre departure orientation (PDOs) organized through Migrant Resource Centres at the Federal Ministry for Labour and Employment (FMLE). In addition, umbrella associations, Human Capital Providers Association of Nigeria (HuCaPAN) and Association of Recruiters License Placement Agents of Nigeria (ARLPAN), represent the interests of private recruitment agencies, facilitate discussion with the Government, while promoting ethical labour recruitment practices and migrant worker protection on both national and international levels.

The public employment system is also well-established, allowing Nigerians to find employment, but primarily on the national level. However, despite these advances, Nigerian citizens continue to migrate abroad for employment purposes, facilitated by both formal and informal recruitment agencies. Recent reports have found a growing trend of informal and unethical recruitment from Nigeria to the Gulf region (ITUC-Africa, 2018), often resulting in cases of abuse and exploitation of migrant workers. In 2017, these realities prompted the Government to instate a ban on labour migration and labour recruitment to the Gulf region. The ban is still in place to enable stakeholders, led by the Ministry of Foreign Affairs, to articulate an elaborate Standard Operating Procedure (SOP), while preparing for bilateral discussions with destination countries in the region.



## 2.4.1. Situational Analysis

### *In-migration to Nigeria*

As of 2019, approximately 1.2 million international migrants were present in Nigeria, constituting thus 0.6 per cent of the total country population (UN DESA, 2019). Main countries of origin include: Benin (29.4%), Ghana (18.5%), Mali (13.4%) and Togo (12.3%) (ibid.).

Foreign workers migrate regularly to work in Nigeria within the framework of the expatriate quota regime, in line with Immigration Act of 1963, and are employed in various sectors, from highly skilled and unskilled work in the formal and informal sectors of the economy. They range from various employment sectors, from business, sales, commerce, medical, science and engineering sectors, to mining, industry, construction, manufacturing, transportation, handicrafts, agriculture and fisheries among others (IOM, 2016). In addition, many foreign nationals have been noted to work within the medical sector, totaling to over 39,000 doctors and 215 dentists in 2006 (IOM and ICMPD, 2015). Some migrants also start their own private economic activities, such as businesses in areas of construction, artisanal activities and retail (ibid.).

The recruitment of foreigners to Nigeria is rare. Foreign nationals usually migrate of their own accord and then seek employment upon arrival. A small number of foreigners are recruited directly by employers, which is dependent on the expatriate quota (ibid.). According to the Immigration Act and Immigration Regulations of 1963, potential employers must apply to the Nigeria Immigration Service for work authorization and an employer's permit to recruit foreign nationals (ibid.). In terms of recent immigration trends to Nigeria, there has been an influx of Chinese companies expanding their activities in Nigeria and bringing Chinese nationals to work for them.

### *Out-migration from Nigeria*

The number of Nigerians abroad more than doubled from half a million (456,932) in 1990 to over a million (1,030,322) in 2013 (IOM, 2016). However, it has stayed relatively constant ever since (IOM, 2016). In 2013, a third of Nigerian migrants lived in other African countries, mostly in West Africa (46.2%), particularly Cameroon, Ghana and the Niger and in Central Africa (42%), specifically Sudan and the Niger. During the same year, a quarter of Nigerian migrants lived in the United States (25%) and the remainder in European countries (34.2%), particularly in the United Kingdom, Italy, Spain, Germany and Ireland (ibid.). The Gulf region has also become a more popular destination for Nigerian migrants in recent years. In 2010, the largest number of migrants (14,678) was recorded in Saudi Arabia, followed by the United Arab Emirates with 6,414 migrants recorded (IOM and ICMPD, 2010).

Irregular migration from Nigeria to Europe also became more prominent in the past decade. According to Euro Stat database, Nigerian migrants in irregular situations were detected in the United Kingdom, Italy and Spain during the period of 2011–2013. These included migrants who had entered irregularly and avoided immigration control, those who used fraudulent documents and those who entered regularly and overstayed their visas (IOM, 2016). Furthermore, IOM has in recent years compiled data of irregular migration flows arriving in Europe. From this data, a prominent trend involves Italy being the principal destination for irregular migratory flows originating from Nigeria towards Europe since 2016. Nigerians were the first nationality amongst arrivals in Italy in 2016, constituting 21 per cent of total arrivals; in 2017, this trend continued as Nigerians were once again the first nationality at 16 per cent (equaling approximately 137,000 individuals) (IOM, 2018d). However, 2018 saw a significant decrease in Nigerian arrivals in Italy with Nigerian nationals constituting 5 per cent of total arrivals, or the equivalent of 1,250 individuals (IOM, 2018c). Furthermore, Nigerian nationals were not amongst the top ten nationalities to arrive irregularly in Italy for the period of January-June 2019 (IOM, 2019b).

However, these figures do not take into account the number of migrants present in other locations along the irregular migration route, such as Algeria and Libya.

Push factors driving out-migration from the country include a growing population, estimated to have reached 195.9 million in 2017 (World Bank, 2019), along with the rising unemployment rate, which has rapidly increased from 12 per cent in 2016 to 23.1 per cent in 2018 (Federal Republic of Nigeria (National Bureau of Statistics), 2018). In addition, over 68 per cent of young people aged 15–24 were either underemployed or unemployed in 2018 (Federal Republic of Nigeria (National Bureau of Statistics), 2018). The slow rate of job creation combined with these factors pose a supply side challenge of a growing labour force and demand relative to a small supply of available jobs, especially for the large number of youths. The perceived prestige of working abroad and higher salaries paid outside of Nigeria also lure many to embark on migratory journeys (ITUC-Africa, 2018).

### *Labour recruitment: Identified trends and issues*

Nigerian citizens are recruited to work abroad by both formal private employment agencies as well as informal agencies. Some also migrate via social networks or through their own means and find employment once abroad (Onazi, 2019).

The exact number of licensed private agencies currently functioning in Nigeria is estimated at around 2000. Most of them function only on the national level, while about thirty four agencies recruit internationally (ibid.).

As found with the other case study countries however, it is apparent that most labour recruitment in Nigeria occurs through agencies that are informal and function underground. Their number is believed to have increased exponentially in the last decade, yet official estimates remain unknown. Many of them are also individual agents, and lack formal business structures and physical offices, making them more difficult to track (ibid.). In addition, many informal PEAs are disguised as travel agencies. During their investigation, the ITUC found an entire building called DMX Plaza in Abuja, where informal recruitment agencies posed as travel agencies were carrying out their activities (ITUC-Africa, 2018).

The recent report by ITUC confirms the growing trend of informal and unethical recruitment from Nigeria to the Gulf region. Findings from the report show informal recruitment agencies offer attractive packages and advertise promises of “higher salaries and better working conditions” than those found in Nigeria, mostly in sectors of domestic work, construction and agriculture (ibid.). Primary countries of destination in the Gulf region include Saudi Arabia, the United Arab Emirates, Jordan and Oman (Onazi, 2019). Other respondents noted that labour recruitment to the Gulf has also gained more traction in Northern Nigeria, specifically Kano State, which may be due to religious factors among others (Osato, 2019). The ITUC Report also found that Nigerian labour migrants in the Gulf faced issues, particularly in Saudi Arabia and Oman many were subject to forced labour and servitude, while lacking access to protection and to seek and achieve redress (ITUC-Africa, 2018).

Despite a government ban on labour migration to the Gulf countries, Nigerian citizens continue to travel to the region with the assistance of informal recruitment agencies and informal networks. Those with visas migrate to the GCC for tourist, study, or religious reasons, which in some cases has led to irregular migration (Onazi, 2019). Some informal agencies also facilitate visas for the Hajj pilgrimage in Mecca, which are then used for a temporary period upon which migrants seek employment through informal agencies in Saudi Arabia (Adebosin, 2019).

The links between informal recruitment and trafficking in persons are also evident in Nigeria. According to the US Department of State Trafficking in Persons report, authorities identified Nigerian trafficking victims in 34 countries (US Department of State, 2019). Nigerian women and girls have been victims of sex trafficking within Nigeria and in European countries, including Italy, Spain, Austria and Russia. During the 2018 World Cup in Russia, Nigerian agents fraudulently recruited Nigerian women for jobs in Russia and later exploited them in sex trafficking (ibid.). In early 2019, 1,863 Nigerians remained in Russia without travel documents (ibid.). In addition, 18 suspected traffickers for external labour exploitation were arrested in 2012 and NAPTIP rescued 98 trafficked Nigerians from Saudi Arabia and the Niger in 2009 (IOM, 2016).

## 2.4.2. Labour Migration Management at the National Level

### *Roles and Responsibilities of Government Offices*

In Nigeria, several Ministries contribute to labour migration management. The National Migration Policy (NMP), officially adopted on 13 May 2015, recognizes the need for national labour market assessment and regulation of private labour recruitment; it also aims to enact measures to protect the rights of migrant workers prior to departure and during their stays abroad (ITUC-Africa, 2018). In addition, the National Policy on Labour Migration (NPLM), adopted on 15 October 2014, provides guidelines on labour out-migration, including regulations on private recruitment agencies and calls for the protection of migrant workers and the engagement of social partners to ensure effective governance of labour migration (ibid.). The NPLM also recognizes necessary involvement of State Labour Offices and public employment systems in the labour recruitment of migrant workers (IOM and ICMPD, 2015).

In line with the national migration governance framework, the Federal Ministry for Labour and Employment (FMLE) is the mandated agency directly in charge of labour migration as well as the regulation of international labour recruitment and private recruitment agencies. Through its International Labour Migration Desk (ILMD), the Ministry promotes employment, regulates the labour market, oversees labour relations and monitors employment conditions (Onazi, 2019). The FMLE operates 36 State Labour Offices, seven professional departments and 5 Parastatals through which it carries out actions related to labour and employment (ibid.). The FMLE empowers labour officers to carry out labour inspections to implement and monitor policies, the licensing and monitoring of private employment agencies and the review of foreign contracts (Federal Republic of Nigeria (NPLM), 2014). The FMLE is also in charge of implementing the NLMP and is the lead agency for the Technical Working Group on Labour Migration, a thematic group of the National Migration Policy, which is involved in issues such as expatriate quotas, labour exchange and protection of migrant workers (Federal Republic of Nigeria (NPLM), 2014). The FMLE also coordinates Bilateral Labour Agreements (BLAs) and Memorandums of Understanding (MOUs) with other countries in conjunction with Ministry of Foreign Affairs and Justice (Onazi, 2019).

Public employment in Nigeria is facilitated through State Labour Officers at the FMLE. In addition, the FMLE created the National Electronic Labour Exchange (NELEX) as an online platform and job portal, which provides free services for jobseekers and employers (ibid.). In addition, the FMLE in collaboration with IOM established Migrant Resource Centres (MRCs) in Abuja, Lagos and Benin City (ibid.). MRCs offer relevant information on safe migration, rights at work, pre-departure orientation seminars, referral and counselling services to potential and returnee migrants (Federal Republic of Nigeria, 2019b). Counselling services offered include guidance on processes and procedures of all stages of the migration cycle and in job search according to qualifications, skills and technical aptitude as well as verification of overseas employment promoters (ibid.).

The FMLE is also the main regulatory body for PEAs in Nigeria. It is responsible for processing registrations and licenses, ensuring PEAs comply with all requirements, monitoring PEAs by means of inspecting workplaces and quarterly reports (Onazi, 2019). The FMLE also organizes annual workshops with NECA (Nigerian Employers' Consultative Association), HuCaPAN (Human Capital Providers Association of Nigeria) and the NLC (Nigeria Labour Congress) to exchange on issues of labour recruitment and employment in Nigeria and contribute to addressing and improving concerns for employers and PEAs in the country (Adebosin, 2019). The Ministry also organizes quarterly meetings with HuCaPAN to discuss priorities related to promoting ethical recruitment in Nigeria while improving business prospects for PEAs (Onazi, 2019).

As referred to above, the FMLE instated a ban on labour recruitment of Nigerian nationals to the GCC countries in November 2017. The ban was the result of the findings of an Inter-Ministerial Committee task force, which was sent to investigate situations faced by Nigerian migrant workers in Saudi Arabia and uncovered many cases of abuse, exploitation and forced labour (ibid.). Although the FMLE claims that none of the migrants recruited by licensed PEAs in Nigeria were found to be in such precarious positions, they implemented the ban to regulate the situation and stop agencies from recruiting to the region (ibid.). Some licensed PEAs that previously recruited to the GCC region noted that they are losing business due to the ban and regularly inquire with the FMLE as to when the ban will be lifted (ibid.).

The National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) was established in 1989. The interministerial commission brings together over 20 recruitment agencies via four Working Groups. The NCFRMI plays the major role as coordinating agency of all migration-related issues and migration governance in Nigeria, including coordinating national migration governance (IOM, 2016a).

The Ministry of Foreign Affairs (MFA) is the main coordinating agency between government ministries and the international community. MFA is also the main coordinating agency for MOUs and BLAs, particularly responsible for those related to voluntary return and readmission, training and education of returnees (Kolade, 2019).

As part of its Migration Unit, MFA supports Nigerian migrants abroad through its missions and consular offices, which are located in over 150 countries including those in the Gulf region (ibid.). According to MFA, there is only one labour attaché currently posted at the Nigerian mission in Geneva, due to lack of government funding for labour attaché positions. However, Foreign Service Officers (FSOs) are present in Nigeria's missions and consulates and MFA trains them comprehensively including on labour issues. Some of them are also specifically designated as labour FSOs. Specifically, Nigerian FSOs cooperate with migrant associations and conduct sensitization and awareness campaigns urging migrants to register with the consulate as well as informing them of their rights as migrant workers (ibid.). MFA is also planning a capacity-building programme for staff and FSOs abroad on the importance of awareness-raising, especially regarding irregular migration and improving protection for Nigerian migrants abroad (ibid.).

The National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) was established in 2002 and expanded in 2005 as the main agency dealing with trafficking in persons issues in Nigeria (IOM, 2010). NAPTIP oversees the prevention of trafficking in persons, protection of victims (rescue, repatriation, return and reintegration), training and research, as well as carrying out investigations and prosecutions and arrests of informal recruiters, traffickers and smugglers (Morka, 2019). As part of its investigatory efforts, NAPTIP cooperates with the National Association of Nigerian Travel Agents to identify informal agencies and agents, in addition to investigating perpetrators identified during distress calls received from victims (ibid.). Despite their efforts, NAPTIP claims that only 10 per cent of all cases are officially filed in court (ibid.). The Agency also works with the Air and Travel Association, the Nigerian Civil Aviation

Authority and the Federal Airport Authority of Nigeria to organize awareness campaigns on trafficking in persons and investigate potential victims at airports (ibid.). Additionally, NAPTIP repatriated 10 victims from Senegal in past few months, though it faces funding concerns in facilitating repatriation of victims from abroad (ibid.). Lastly, NAPTIP has also contributed to establishing BLAs/MOUs with other countries on the identification, return and rehabilitation of victims of trafficking in persons, with countries including Benin, the United Kingdom, Spain, France, Germany and Austria (ibid.).

The National Bureau of Statistics (NBS) and the National Population Commission (NPopC) are government bodies in charge of gathering and managing all data, including migration data in the country (Federal Republic of Nigeria, 2014). In the NPLM, one of the goals is to empower these institutions to register departures and returns of all migrants and store details of their employment in both Nigeria and abroad (ibid.). In the future, the NPopC plans to establish booths at airports with officials to perform data entry of migrants entering and departing (IOM, 2010).

Lastly, the Nigeria Immigration Service (NIS) is the government body responsible for all functions related to immigration and the status of foreign nationals in Nigeria. These include control of persons entering or leaving Nigeria, issuance and administration of travel documents and residence permits to foreigners and border surveillance and patrol. The NIS is also in charge of enforcing immigration-related regulations, specifically through the Immigration Act of 1963 and the Immigration Regulations (LN 93), Immigration Control of Aliens Regulations (LN 94), both adopted in 1963 (IOM and ICMPD, 2015).

#### *Public Employment Systems and Labour Migration Management*

The FMLE facilitates public employment through its State Labour Offices, which match the labour demand and supply and place workers within the national labour market. Employment is also carried out by the NELEX platform, which is regulated by the FMLE and serves as an online portal to connect jobseekers and employers in Nigeria (Federal Republic of Nigeria, 2019c). The platform allows employers and private agencies to browse through CV's of available candidates. In addition, it also provides a list of licensed PEAs for jobseekers to utilize. The platform warns jobseekers of fraudulent agencies and persons and demands that any agency or person demanding fees for recruitment services or partaking in suspicious activity be immediately reported (ibid.).

Pre departure orientations (PDOs) are organized through Migrant Resource Centres. All licensed agencies recruiting internationally are required to send jobseekers to MRC's for the orientation. The PDO includes information on procedures for safe and legal migration including required documents, on risks and consequences of irregular migration and assistance with formal complaints against fraudulent recruitment or employment agencies (Onazi, 2019). It also provides information about working environments, living conditions, labour laws and socio-cultural norms of destination countries, as well as the rights and duties of migrants abroad (ibid.). Additionally, the FMLE collaborated with the International Labour Organization (ILO) to develop pre-departure information materials for those migrating from Nigeria to seven destination countries, including Australia, Canada, Italy, Sweden, Spain, the UK and US (IOM and ICMPD, 2015).

#### *National, international, regional and bilateral frameworks related to labour migration*

Pertaining to national legislation, Nigeria's Labour Act was created in 1990 and revised in 2004. The Labour Act contains provisions on the regulation and monitoring of private recruitment agencies. It also prohibits forced labour, those guilty of an offense and conviction shall be liable to a fine not exceeding N1,000 or to imprisonment for a period not exceeding two years, or to both (Federal Republic of Nigeria (Labour Act), 2004).

In addition, Nigeria passed the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act in 2003, which was amended in 2015. This Act makes several references to labour recruitment within its definition of trafficking in persons and applies to recruiters located both within and outside of Nigeria through the following provisions:

- Part III, Section 13, Subsection 2: Acts of trafficking in persons defined as, “Any person who recruits, transports, transfers, harbours or receives another person by (a) means of threat or use of force or other forms of coercion; (b) abduction, fraud, deception, abuse of power or position of vulnerability; or (c) giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation of that person, commits an offence and is liable on conviction to imprisonment...” (Federal Republic of Nigeria, 2015).
- Subsection 3 is directly applicable to recruiters and employers in stating, “For the purpose of sub-section (2)(c), abuse of a position of vulnerability includes intentionally using or otherwise taking advantage of an individual’s personal, situational or circumstantial vulnerability to recruit, transport, transfer, harbour or receive that person for the purpose of exploiting him or her...” (Federal Republic of Nigeria, 2015).
- Subsection 4 specifies that any individual participating in above provisions is liable to conviction as well as imprisonment and a fine of minimum N1 million (Federal Republic of Nigeria, 2015).
- Subsection 22 refers to forced labour, both within and outside Nigeria and is again applicable to both recruiters and employers: “Any person who (a) requires, recruits, transports, harbours, receives or hires out a person to be used for forced labour within or outside Nigeria...commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and a fine not less than N1,000,000.00.” (Federal Republic of Nigeria, 2015).

Regarding international legislation, the Government of Nigeria has currently ratified the following international conventions and agreements. However, it has not yet ratified the ILO Private Employment Agency Convention (N.181) and /Domestic Workers Convention (N.189) (Federal Republic of Nigeria, 2014).

- International Covenant on Civil and Political Rights (1966);
- International Covenant on Economic, Social and Cultural Rights (1966);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);
- Convention on the Rights of the Child (1989);
- International Convention on the Protection of the Rights of All Migrant Workers and The Members of their Families (1990)
- United Nations Convention against Transnational Organized Crime (2001)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons (2001) (IOM, 2016)
- Protocol Against the Smuggling of Migrants by Land, Sea and Air (2001) (Federal Republic of Nigeria, 2014).
- Discrimination (Employment and Occupation) Convention No. 111 of 1958 (2002) (Federal Republic of Nigeria, 2014).
- ILO Migration for Employment Convention, 1949 (No.97) (2003) (Federal Republic of Nigeria, 2014).
- ILO Convention No. 29 in 1930 on Forced or Compulsory Labour (1960) (Federal Republic of Nigeria, 2014).
- ILO Convention No.105 on Abolition of Forced Labour (1960) (Federal Republic of Nigeria, 2014).

- ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation (2002)

On the regional level, Nigeria is bound by ECOWAS texts including the ECOWAS Treaty (1975) and its subsequent protocols, such as the Protocol on Free Movement of Persons, Residence and Establishment (IOM, 2016).

Pertaining to the management of Memorandums of Understanding (MoUs) and Bilateral Labour Agreements (BLAs), the Government of Nigeria has concluded four agreements on return and readmission of irregular migrants and victims of trafficking (IOM and ICMPD, 2015). The FMLE is also currently in discussions with several countries including Botswana, Qatar, United Arab Emirates and Saudi Arabia on migration related BLAs (ibid.).

Other recently signed MoUs and BLAs are detailed below:

<b>Nigeria–Switzerland</b>	<p>MoU on immigration matters, general provisions on reintegration of returnees, protection of victims of trafficking and payment of transportation of irregular migrants, signed in 2019.</p> <p>MoU signed in February 2011 between Nigeria and Switzerland to enhance cooperation in the field of migration. A number of areas of cooperation are listed within the MoU, including the fight against migrant smuggling as well as trafficking in persons and trafficking of drugs, capacity-building in immigration and administration, promotion and protection of human rights, etc.</p>
<b>Nigeria–Benin, Congo</b>	<p>Bilateral agreement on the prevention, repression and suppression of trafficking in persons, especially women and children, between Benin, Nigeria and the Congo in 2011.</p>
<b>Nigeria–Benin</b>	<p>Agreement on the prevention, repression and suppression of trafficking in persons, especially women and children, between Benin and Nigeria in 2009.</p>
<b>Nigeria–Spain</b>	<p>Agreement on immigration matters, specifically related to assistance for victims of trafficking in persons and joint measures to combat irregular migration, facilitate repatriation and provides mechanisms for legal migration of Nigerian workers to Spain.</p> <p>Signed 12 November 2001 and ratified 30 November 2002.</p>
<b>Nigeria–South Africa</b>	<p>Agreement on immigration matters.</p> <p>Signed on 28 March 2002 and Ratified on 30 November 2002.</p>
<b>Nigeria–Ireland</b>	<p>Agreement on immigration matters.</p> <p>Signed on 29 of August 2001 and ratified on 30 November 2002.</p>
<b>Nigeria–Italy</b>	<p>Agreement on immigration matters, specifically related to repatriation and readmission of irregular migrants.</p> <p>Signed on 12 September 2000 and ratified 30 November 2000.</p>
<b>Nigeria–Benin, Ghana, Togo</b>	<p>Agreement on mutual administrative assistance in matters relating to customs, trade and immigration.</p> <p>Signed on 10 December 1984 and Ratified on 10 March 1985.</p>

One of the main objectives of the National Migration Policy (2015) is to develop government capacity to pursue bilateral and multilateral agreements that would benefit Nigeria and migrant workers and their families, as well as host countries (Federal Republic of Nigeria, 2014). In line with this goal, the Government aims to prepare a model MOU referencing the standards prescribed by ILO Recommendation 86 – Migration for Employment (ibid.).

Some challenges the Government has faced in negotiating MOUs and BLAs include issues faced with governments in the Gulf region due to the Kafala system that regulates employment relations. In addition, it has been a challenge for Nigeria to have commitment from many countries who prefer to sign MOUs (rather than BLAs) as they are non-binding (Onazi, 2019). MFA has also struggled with logistical issues, bureaucratic procedures and long processes of drafting and finalizing legal documents and getting signatures from both countries involved in the agreement (Kolade, 2019).

### *Private Employment Systems*

Many licensed private recruitment agencies in Nigeria are organized under the **Human Capital Providers Association of Nigeria Human Capital Association of Nigeria HuCaPAN**. Established in 2008, HuCaPAN is a voluntary organization whose main functions relate to the recruitment, deployment and management of all categories of manpower (further discussed in next section).

According to HuCaPAN, three types of private recruitment agencies exist at the national level: agencies that are licensed by the FMLE and members of HuCaPAN, agencies that are licensed by the FMLE but not members of HuCaPAN and lastly unlicensed and informal agencies.

The FMLE claims there are over 1000 private agencies currently registered and licensed in Nigeria, the majority of which operate on the national level. The number is also not definite as some agencies renew their licenses on a regular basis while other function only temporarily (Onazi, 2019). According to records from the FMLE, the number of licensed private agencies has increased from 333 in 2015 to more than 1000 in 2019, with over 200 new agencies registering on an annual basis (ibid.). Several factors can explain the increase in the number of licensed agencies, including modernized and facilitated bureaucratic procedures for registration, licensing and renewal for private agencies (Onalaja, 2019).

Informally, the FMLE through its engagement with NECA applies pressure on employers to request recruiters' licenses from all private recruitment agencies with whom they work. For employers to be made aware of the status of agencies and encouraged not to work informal ones, they should ask the agency for its recruiter's license prior to working with them (Onazi, 2019). Therefore, the FMLE claims that demand is higher for recruiters' licenses as employers are more aware of informal and unethical recruitment and cognizant of their responsibility to ensure the PEA is functioning at legal and ethical standards (ibid.). In addition, in the case that the company is reported for any labour recruitment-related issues and brought to the National Assembly, if the PEA is licensed and a member of HuCaPAN, the employer is not liable (Ajala, 2019).

The number of informal agencies currently operating in Nigeria is unknown, yet it is apparent that they greatly outnumber licensed agencies. Informal agencies functioning on the international level are likely to engage in fraudulent practices tied to trafficking in persons (IOM and ICMPD, 2015). In addition, informal PEAs are getting increasingly difficult for officials to track. An official from the FMLE claimed, "we know that unregistered PEAs exist and continue to lure and send innocent Nigerians, especially young ladies to the Gulf region, but their modes of operation are growing increasingly sophisticated and difficult to uncover and curtail" (ITUC-Africa, 2018). Additionally, informal agencies advertise through social media networks and post advertisements



in newspapers and informal posters in public spaces. They also hire canvassers, usually young men and women, who attract prospective candidates in person through social networks (ibid.).

For the study, six PEAs were interviewed in Nigeria.<sup>10</sup>

**Recruitment Agency 1** is an agency registered and licensed by the Corporate Affairs Commission and the FMLE, as well as a member of HuCaPAN. The agency limits its recruitment activities to the national level and does not charge jobseekers fees for recruitment and placement services. It offers two types of recruitment services: direct recruitment for employers as well as human resources outsourcing in sectors including financial services, oil and gas, insurance and the pharmaceutical industry. It has recruited for employers such as the First Bank of Nigeria Limited and pharmaceutical company May and Baker. The agency advertises via social media networks, specifically LinkedIn, as well as by selecting candidates from its expansive database of Curriculum Vitae.

The agency provides services to both employers and jobseekers, such as recruiting for specific jobs for clients, conducting a shortlisting and assessment of candidates and onboarding. The agency also hires and outsources workers to specific employers and conducts onboarding and training, which includes a general orientation for candidates, an explanation of the roles of the company, agency and worker, basic communication and other skill building. It then organizes regular meetings with recruited personnel to discuss expectations and realities once they are on the job and handles any issues that might arise between the employer and candidate. If a worker faces issues with an employer, the agency addresses the employer about it immediately. The agency also carries out deliberate due diligence on employers to ensure that they are up to standards (for instance, through the provision of health insurance, minimum wage, pension scheme). In addition, it has faced various issues as an agency. Recruited workers have faced delayed salaries and difficult work environments. In cases of delayed salaries, the agency has paid workers out of pocket until the salary was received from the employer. In other cases, the agency had to cease business with a company with which workers had experienced continuous issues.

**Recruitment Agency 2** is a management consulting firm that provides recruitment services and is registered as a company with the Corporate Affairs Commission. The agency does not currently have a recruiter's license, nor is it a member of HuCaPAN. The agency provides recruitment services limited to the national level in sectors of employment such as insurance and healthcare and does not charge fees for these services. The agency recruits for executive positions of highly skilled corporate professionals as well as lower skilled positions in sectors such as domestic work and transportation. In addition, it recruits for Nigerian companies and international companies expanding their businesses to Nigeria. The agency advertises through social media networks and by placing advertisements in newspapers. It does not offer training for jobseekers. It has also faced challenges with recruitment on the part of workers, which are frequently not transparent with their skills and knowledge, which leads to employer's disappointment with the recruited candidates.

**Recruitment Agency 3** is a private recruitment agency licensed by the FMLE. The agency provides services for labour recruitment and staff management on both national and international levels and it does not charge recruitment-related fees. It also provides orientations for workers embarking to work abroad, which consists of an introduction to that country's working environment, local laws, disciplinary measures, as well as providing contact information

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<sup>10</sup> For legal and other purposes, these organizations will be kept anonymous and referred to as "Recruitment Agency 1, 2, 3", etc.

in case candidates face issues while abroad. The agency is also a member of HuCaPAN, it attends meetings regularly but feels that many of the other PEAs are inexperienced and that the meetings are not particularly helpful for their agency. The agency advertises by posting in the newspaper. It has also faced issues as a PEA: in one specific case, candidates recruited to Senegal were paid 60 days late. The agency promptly contacted the company in Senegal and resolved the issue. Workers have also faced problems working overtime and longer hours than specified in the contract, which the agency resolved with the employer. On the part of workers, the agency has faced issues with some not fulfilling the obligations stated in the contract, such as terminating early or changing to another recruitment agency without alerting them in advance.

**Recruitment Agency 4** is another private recruitment agency, which provides services in Nigeria as well as on the international level. The agency is also a member of HuCaPAN and provides direct labour recruitment services for employers; it does not charge any fees to jobseekers.

The agency recruits for specific positions demanded by companies abroad. Once companies request specific demands for jobs, these are first relayed to the Ministry of Labour for authentication. The agency requires all employers to submit formal letters along with their demands and keeps a record of all individuals recruited in a database, including formal complaints submitted by workers. Once workers have been recruited and chosen, the agency organizes a three day orientation for workers going abroad, which consists of presentations about the country of destination, cultural differences, information on workers' rights, directions for what to do in case of issue and phone numbers to reach supervisor abroad as well as the agency's staff in Nigeria. They are also required to attend another mandatory pre-departure orientation at the Ministry of Labour. Subsequently, some recruited workers also attend a three-day training, such as domestic workers. For drivers, they are required to attend a two-week training which provides certificates upon completion.

The agency recruits on the national level as well as abroad. For international recruitment, the agency works with specific companies directly and ensures each one supplies a "supervisor" who is employed by the agency to supervise recruited workers; they are also responsible for addressing any issues workers may face and if unable to solve directly they relay information to the agency in Nigeria. The agency also recruits to Saudi Arabia, Oman, the United Arab Emirates and Lebanon in the Gulf region and Middle East, mostly for unskilled positions such as domestic workers, drivers and sales representatives, as well as highly skilled positions including doctors and nurses. The agency also recruits to Poland, for highly skilled positions in the aircraft engineering and agriculture fields.

Some issues faced on the part of workers include dissatisfaction with the working conditions, including hours and job responsibilities. Some workers for instance claimed they worked longer and on different tasks than originally specified in their contract. Other workers experienced problems with confiscation, when nurses had their cell phones confiscated upon arrival to the new workplace for instance. The agency deals with these issues first directly through the supervisor, then writes a formal complaint to the employer asking them to rectify the issue and if it is not solved, they facilitate workers' return to Nigeria. However, issues that the agency has faced have been resolved swiftly and rarely have necessitated legal action and the repatriation of workers.

**Recruitment Agency 5** is a private recruitment agency licensed by the FMLE and a member of HuCaPAN and ARLPAN. The agency is active in promoting ethical labour recruitment initiatives in the country.

The agency recruits mostly on the international level, particularly to the United Arab Emirates, Saudi Arabia, Qatar, Bahrain, Oman and Kuwait in the Gulf region. The agency recruits for mostly low-skilled jobs in sectors such as domestic work, hospitality, construction, security services, transportation services and nursing. It also partners with several large Oil and Gas

companies in the Gulf. So far, the agency has recruited over 2,000 persons to the Gulf countries, over 70 per cent of which were female, recruited for jobs in domestic work, hospitality, nursing and driving services.

The agency provides a pre-departure orientation for all candidates recruited for overseas work. During the 3 to 5 day training, the agency provides information for candidates on work and life expectations and cultural differences in the country of destination, the code of conduct at the specific company, worker's rights as well as a 24 hour phone number they can call in case they face issues or an emergency abroad. In addition, the agency provides training for certain positions. For instance, they have a registered driving school affiliate, which trains candidates and presents them with a certificate prior to their departure to work as drivers abroad. In addition, the agency employs supervisors to oversee recruited workers from Nigeria abroad and address any issues they face. However, as this is expensive it is not covered by a large number of employers.

The agency faces several obstacles. Primarily, it has not been able to recruit for more than one year due to the government ban on labour migration to the Gulf and increased pressure from NAPTIP and immigration authorities. It claims that government authorities have cracked down on international recruiters and wrongly accused them all as traffickers. On the other hand, workers recruited by the agency have also faced issues abroad, namely delayed payment of salaries and long working hours.

**Recruitment Agency 6** is an international recruitment agency founded in 2005. As detailed in the preceding section the agency is based in London but has opened over 40 offices in Africa. Its first office in Africa was opened in Abuja, Nigeria, in 2007. In Nigeria, the agency recruits both nationals for international positions as well as foreigners for positions inside of Nigeria primarily in the sectors of oil and gas and financial technology.

#### *Regulation of Labour Recruitment and Private Recruitment Agencies in Nigeria*

Since 2001, the FMLE has required all private employment and labour recruitment agencies to be registered and licensed by the FMLE and the Corporate Affairs Commission as per the Labour Act of 2004. Licensed PEAs that are members of HuCaPAN must also adhere to the Code of Conduct for Private Recruitment Agencies of 2011,<sup>11</sup> which include the following principles:

- Respect for Ethical and Professional Conduct
- Respect for Laws
- Respect for Transparency of Terms of Engagement: PEA shall ensure workers are given details of working conditions, nature of work, rate of pay, working hours, details of contract/employment relationship.
- Respect for free-of-charge provision of services to jobseekers. The PEA shall not charge fees to prospective employees and workers for services directly related to temporary or permanent placement
- Respect for Health and Safety at Work
- Respect for Diversity
- Respect for Workers' Rights: PEE shall not restrict freedom of association, promote equitable and transparent principles for wages.

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<sup>11</sup> The product of joint effort amongst the FMLE, NECA Federal and an Ethics Committee associated with the FMLE, HuCaPAN and the ILO, the Code of Conduct for Private Recruitment Agencies was created in 2011 to promote decent work, ensure worker protection and ensure that all members of HuCaPAN abide by a mandate which conforms to ILO's principles of decent work and ethical recruitment (Adebosin, 2019).

- Respect for Confidentiality
- Respect for Professional Knowledge and Quality of Service
- Respect for Fair Competition
- Social Dialogue
- Commitment to Professional Development (Federal Republic of Nigeria, 2004).

In Nigeria, PEAs are primarily regulated by Chapter 198 of the Labour Act of 1990 and the revised Labour Act of 2004, which provides for the licensing system with the following stipulations:

- Article 25(2): Licenses are granted for a period of two years for new applicants while a license renewal is granted for a period of three years.
- Article 27(4) imposes an age limit of 18 for recruitment.
- Article 30(1): Travel expenses are to be covered by the employer or the private employment agency.
- Article 27(1) requests the tenure of records of the agencies' operations.
- Article 26(1) forbids recruitment in the "labour health area".

The updated legislative and regulatory framework for PEAs is specified in the Labour Act (2004) PART II RECRUITING. By law, all person or associations are prohibited from labour recruitment or placement without a recruiter's or employer's license. Consequently, any person or association must submit an application to the FMLE to register for a recruiter's license. It is also mentioned that for every permit granted, recruitment of workers should occur under "suitable ethical conditions" (Federal Republic of Nigeria, 2004).

The application for a recruiter's license must include the following components:

- An application letter;
- An application form;
- A security deposit of 5,000 Naira;
- A memorandum and articles of association form;
- A copy of the management profile to ensure competency;
- A certificate of incorporation;
- A pre-registration inspection report by State Labour Office officers;
- Evidence of registration with pension fund administrator;
- Copy of contract with client company (companies);
- Sample copy of contract for recruited staff;
- Three copies of the company handbook;
- Evidence of health insurance/medical allowance;
- Bank guarantee/insurance bond for number of workers recruited;
- Contact details of the director(s);
- Registration with the Nigeria Social Insurance Trust;
- Evidence of registration with regulatory body in relevant employment sector;
- Training policy for recruited personnel;
- Name of unions of which workers are members;
- Fee of 400,000 Naira (IOM and ICMPD, 2015).

Prior to granting the permit, the FMLE can request an amount for a security deposit to cover the payment of wages and travelling expenses of workers to be recruited, payment for expenses that may be incurred by the FMLE in respect of workers and their families, for the payment of a fine or indemnity that may be imposed upon the employer (Federal Republic of Nigeria, 2004). Upon successful registration, a recruiter's license is issued and valid for two years, after which is renewable for three years.

During the labour recruitment process, a labour officer issues a certificate to each recruited worker, asserting that he/she understands the contract, terms of employment, and has not been subjected to pressure or recruited by misrepresentation, as well as examined medically (ibid.). Consequently, the labour officer has the right to request documentation for each recruited worker, including identification and conditions of employment, as well as request for the agency or employer to make an advance of wages to the recruited worker (ibid.).

A licensed agency is bound to a number of obligations. Primarily, it must not charge fees to workers for any labour recruitment services. The agency or client employer must also cover costs of transportation to the place of work, either nationally or internationally. The agency must also ensure each worker is medically examined. Subsequently, the PEA must submit quarterly reports of its activities to the FMLE and keep record of all operations, which can be requested by the Ministry on demand (ibid.).

Restrictions on labour recruitment are made in the case that a large number of workers is being recruited at once. There is also a limit on the amount recruiters and assistants employed at PEAs can be paid. In addition, public officials are restricted from participating in any forms of labour recruitment activities. Lastly, labour recruitment is not allowed in the "labour health area" and no person under 18 can be recruited unless this is waived by the Government (ibid.).

For those agencies recruiting internationally, the labour officer will first ensure the recruited worker is medically examined, that he/she understands and agrees to the terms of the valid employment contract and has obtained consent in writing from a local authority within whose jurisdiction he usually resides (ibid.). Foreign contracts are required to be of 1 year if worker is travelling independently and 2 years if worker is accompanied by his/her family. Each foreign contract is required to include one free day per week, a daily ration of food for free, half pay and half rations prior to departure from Nigeria, as well as ensuring that accommodation, food and housing is provided by employer abroad.

In addition, the agency must facilitate the worker's return journey. International contracts must also be signed in the presence of a foreign officer, who will ensure that the worker understands the contract in their language and has voluntarily entered into it. The labour officer will keep a register of all foreign contracts, their length, place of work, employer specifications among other details. In the case that the recruited worker becomes incapacitated by sickness or accident, found on medical examination to be unfit, or found by a labour officer to be recruited by misrepresentation or mistake is by law required to be repatriated at the expense of the PEA/ employer to Nigeria (ibid.).

The LMP certifies that the Government shall undertake close supervision and monitoring of labour recruitment activities of overseas PEAs to minimize malpractices and abuses, introduce criminal proceedings and cancel licenses for serious offenders and that special attention will be paid to categories of workers such as domestic workers (ibid.). Apart from inspecting contracts and ensuring recruited workers understand and enter them voluntarily, Labour Officers from the FMLE conduct workplace investigations of agencies. The FMLE also inspects quarterly reports submitted by each agency.

Equally, the Ministry monitored informal agencies by investigating advertisements in newspapers, seeking out agencies who advertised their services but were not licensed to operate and reporting them to law enforcement agencies. However, the FMLE, due to inadequate budgetary allocations, lacks the financial capacity to carry out investigations on informal PEAs, unless they are directly reported by recruited workers or by licensed agencies (Onazi, 2019).

With regard to the penal code for offenses, the FMLE may suspend a license pending an investigation into alleged irregularity or withdraw the license in the case of any offense under Nigerian labour law. If an agency or employer is found guilty of mistreating employees, they are subject to a fine of 500 Naira or a prison sentence of one year. In addition, any person who commits offenses detailed in SECTION 47, including recruiting without a license and recruiting for an employer without a permit, is subject to a fine of 2,000 Naira maximum and 5-year prison sentence. An agency which fails to offer a recruited worker a return passage is also liable for a fine not exceeding 200 Naira and any additional repatriation fees incurred by the Government. If a licensed agency is found guilty of any offenses of the Labour Law, it is also blacklisted by the FMLE and have its licensed revoked.

### 2.4.3. Non-State Actors and Labour Migration

In Nigeria, the **Nigeria Labour Congress (NLC)** is the central labour organization established in 1978 to protect and defend the rights of all workers, pensioners and trade unions (Federal Republic of Nigeria, 2014). The NLC is currently the largest trade association in Nigeria with over 8.9 million members (Eustache, 2019). Though some of its members in Nigeria are migrants, the NLC has noticed that when members migrate outside of the country, most lose touch with the union and only re-establish contact if they face issues such as previously experienced by Nigerians in the United Kingdom (ibid.).

The NLC is active in an assortment of issues, such as governance and social issues and the promotion of ethical labour recruitment and increased migrant worker protection (ibid.) It was also involved in the drafting of both the National Migration and Labour Migration Policies. The NLC's primary objectives include enhancing the quality of life of workers, improving workers' income and working conditions and promoting and defending trade unions and human rights of migrant workers (Federal Republic of Nigeria, 2014).

Previously, the NLC has organized a number of events and actions related to promoting the rights of migrant workers. They advocate for decent work standards, as illustrated by an MoU they signed with HuCaPAN to promote decent work, the freedom of association and the right to organize for migrant workers. They also promote the assimilation, integration and anti-discrimination against migrant workers in Nigeria via member unions in various employment sectors (Eustache, 2019). The NLC has also campaigned for improved public services and tax justice against illicit financial flows, which they see as primary drivers of irregular migration (ibid.).

Related to ethical labour recruitment in particular, the NLC hosted a series of campaigns on "No Recruitment Fees" and the promotion of ethical recruitment. For example, on May Day in 2019, the NLC organized an event and gave out flyers to members to spread awareness about the "No Recruitment Fees" principle and need for protection of Nigerian migrants abroad (ibid.).

On 11 June 2019, the NLC also organized a protest in front of the United Arab Emirates Embassy in Abuja to convey their demands for reform of the Kafala sponsorship system and the better protection of the human and labour rights of Nigerian migrants (Oche, 2019). The protest was part of a continental event organized by the ITUC-Africa and simultaneously carried out in 10 African countries (ibid.). The NLC also submitted the recent ITUC Report "Africa Labour Migration to the GCC States" and letter of demands to the Embassy. In response, the United Arab Emirates Embassy acknowledged the issue and wrote back to the NLC promising

they would transfer the information to their home country, but NLC has not yet heard back. In addition, the Saudi Arabia Embassy contacted the NLC (mostly in apprehension of them being the next target for such a rally) and requested to have a meeting with the NLC which will take place in September 2019 (Eustache, 2019).

The NLC also organized the National Trade Union Network on Labour Migration with support from the ILO, which was attended by representatives of ILO, IOM, the FMLE, the ITUC, NLC and representatives of civil society organizations and the media (ILO, 2018). In addition, the Public Services International (PSI) affiliate in Nigeria is a part of the NLC. PSI launched a 'No Recruitment Fees Campaign' on 3–4 October 2018 in Abuja (Public Services International, 2017). The symposium focused on the role of trade unions in organizing, advocating and promoting social dialogue on migration issues and ended with the signing of a 'Manifesto for Fair and Ethical Recruitment' by trade union leaders, civil society partners and government agencies present (ibid.).

The **Human Capital Providers Association of Nigeria (HuCaPAN)**, is the umbrella association of PEAs made up of approximately two hundred (200) members across Nigeria and the number has grown consistently since its creation (Adebosin, 2019). Requirements to join HUCAPAN include: a proof of possession of a Recruiters License from the FMLE, a copy of a CAC Certificate of Incorporation, copy of Memorandum and Articles of Association, copy of CAC Form C02 and C07, copy of application form, reference from two HuCaPAN members and payment of Relevant Fees (N10,000 Application Fee and N50,000 Annual Subscription fee) (HuCaPAN, 2019). All HuCaPAN members are dually guided by Employment and Labour Laws in Nigeria, ILO Conventions and the Code of Conduct for Private Employment Agencies of 2011 (ibid.).

Benefits of joining HuCaPAN include an extended recruiters license term from 1 to 3 years, with the application fee paid initially extended for the following two years. HuCaPAN also holds regular meetings to regroup members and discuss common challenges, teach members how to improve their businesses and to increase incentives for non-members to join (Adebosin, 2019). As members of HuCaPAN, PEAs can have their voice and concerns heard by the Government, can learn about how to improve their businesses and gain competitive advantage in the market and about international regulations for labour recruitment. In addition, by being members of HuCaPAN, PEAs show employers that they are at a certain level of industry standard and are more likely to gain a larger clientele (ibid.).

Most HuCaPAN members recruit solely on the national level and only one percent recruits internationally. Those recruiting internationally recruit to the Gulf region and in sectors of hospitality and cleaning services. Since the ban, these members have also looked to other areas for potential international labour recruitment including Poland, while others that previously recruited to the Gulf have ceased being active (ibid.).

HuCaPAN liaises with employers, workers organizations and government agencies. It also acts in an advisory capacity to national and international bodies on all matters relating to labour recruitment, including oversight on labour recruitment related issues in all relevant governmental agencies. Specifically, HuCaPAN organizes an annual workshop with the FMLE on labour recruitment, which regroups the FMLE, NECA, PEAs and NLC, in the objective of exchanging information on issues related to recruitment in Nigeria and contribute to addressing and improving their situation (ibid.).

The **Association of Recruiters, License Placement Agents of Nigeria (ARLPAN)** is another umbrella association of private recruitment agencies and agents, specifically those recruiting at the international level (Kehinde, 2019). ARLPAN was founded in August 2018 and currently includes around 53 members, from which only 20 members are currently licensed by the FMLE

(ibid.). ARLPAN's main objective is to “bring integrity and regulate the international and local recruiting industry in accordance with processes, rules and law of the Nigerian government and Ministry of Labour”. ARLPAN aims to organize international labour recruiters in Nigeria in order to educate them about the importance of formalizing and becoming licensed by the FMLE (ibid.). In September 2019, ARLPAN organized a seminar on ethical labour recruitment and labour migration in Nigeria. The workshop brought together PEAs licensed by the FMLE and the Corporate Affairs Committee as well as non-licensed PEAs, along with pertinent national actors including HUCAPAN, the Corporate Affairs Commission, ILO, NAPTIP, FMLE, and the National Airport Authorities. The objective of the workshop was to educate PEAs and promote exchange on current issues faced by recruitment agencies in Nigeria. In particular, ARLPAN encouraged invited non-licensed PEAs (most of which categorized themselves as travel agencies) to register with the Government and undergo the licensing procedure to recruit internationally (ibid.).

The **Nigeria Employers' Consultative Association (NECA)** is the umbrella organization of employers in the organized private sector in Nigeria (Federal Republic of Nigeria, 2014). Founded in 1967, NECA is a voluntary association and platform for private sector employers to interact with the Government to promote productivity and protect employers' interests (ibid.).

NECA also serves as an external moderator for labour recruitment and selection of members, by assisting in preparation of contract, wages and salary administration, collective bargaining, management of disputes, provides database on collective agreements, taxation and social welfare issues (ibid.). It also spreads awareness of the importance of adherence to Labour Law, the Code of Ethics for PEAs and ILO Conventions. In the case that members have issues with labour recruitment, NECA provides them with advice on how best to address the situation and improve their practices. It also keeps the FMLE updated in line with their function as an advisory body. In the past, NECA experienced issues with members, for instance that did not pay their employees on time or did not increase the minimum wage provided after it was recently amended by law (Ajala, 2019).

The **National Association of Nigeria Nurses and Midwives (NANNM)** is a national trade union and non-governmental organization, which organizes all professional nurses and midwives who are trained, registered and licensed to practice nursing in both in public and private sectors in the country (NANNM, 2019). NANNM also assists nurses to secure employment opportunities and visas abroad, notably in Saudi Arabia and the UK (Eustache, 2019) However, it has experienced issues with the placement of nurses abroad, such as the mismatch of qualifications, unfair terminations of contracts and worker dissatisfaction (ibid.).

The **Civil Society Network Migration Network (CSO Network)** is an umbrella organization formed in 2016 that regroups the activities of 38 members involved in migrant, refugee, IDP and development related activities in Nigeria (Osato, 2019). Their main objective is to strengthen coordinated information exchange, develop knowledge and capacities, enable project collaboration and initiate thematic workshops and meetings (CSO Network, 2019). Previously, CSO Network has organized awareness-raising events on irregular migration in universities, during which they reorient potential migrants to the Migrant Resources Centres and the International Labour Migration Desk at the FMLE (Osato, 2019). They have also facilitated trainings on migration and development and created working groups such as the “GFMD Preparation and International dialogue” to promote information exchange among members, concerning the international dialogue on GFMD (CSO Network, 2019).



#### 2.4.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations

The above sections shed light on a number of barriers stakeholders face in promoting ethical recruitment and protecting migrant workers in Nigeria. Specific challenges and recommendations are discussed below.

##### **Increase government resources and capacity for effective monitoring and enforcement of regulations on private labour recruitment.**

It would be advantageous for the FMLE and other agencies to seek additional funding and capacity-building in order to train as well as regularly deploy labour inspectors to carry out workplace inspections and investigate informal agencies (Onazi, 2019). The supervision and inspection of PEAs has been infrequent due to paucity of funds and lack of capacity-building for labour officers to undertake such activities in view of the large number of licensed PEAs in Nigeria. The Government has also faced difficulties in tracking informal agencies, as the Ministry had previously done by investigating fraudulent PEA advertisements in newspapers. Furthermore, enhanced information sharing between governmental institutions would be beneficial for further clarification regarding issues related to labour recruitment both within Nigeria as well as the situation of Nigerian workers abroad and joint ways forward.

##### **Increase international cooperation on labour migration issues as well as support for consular missions.**

It would be beneficial for the Government to initiate negotiations with popular destination countries for Nigerian migrants to develop BLAs/MOUs related to migration, while ensuring they contain provisions on ethical labour recruitment and migrant worker protection. According to respondents, the MOUs and BLAs that Nigeria has established with other countries have not been highly effective. For instance, the MoU on cooperation in the field of migration that involves counter-trafficking efforts with Switzerland has been in existence since 2011 but the number of victims of trafficking identified and repatriated to Nigeria has been very low (Konate, 2019). In addition, services to assist migrants through consular offices and missions remain limited to assisting victims of trafficking in persons and irregular migrants with return to Nigeria. For instance, there are few labour attaches stationed in consulates abroad resulting in decreased support for migrant workers, especially irregular migrants stranded in vulnerable situations. It would thus be useful for consulates and missions abroad to increase their outreach and facilitate engagement with migrants originating from their respective country of origin and living in the destination country, for example by allowing migrants to register online if the person is not able to come to the mission in person.

##### **Ratify key international conventions.**

It would be advantageous for the Government to ratify key international conventions related to the rights of migrant workers, including the Private Employment Agencies Convention 1997 (No.181), the Domestic Workers Convention (No.189) (IOM, 2018a). The ratification of these conventions is key in ensuring the protection of both migrant workers in Nigeria and of Nigerian migrants abroad, as well as in providing essential standards to which all entities undertaking labour recruitment practices should adhere.

##### **Address informality within the private labour recruitment industry in Nigeria.**

In Nigeria, private recruitment agencies continue to find ways around the registration and licensing procedures to function informally and/or charge fees for their services illegally. Many PEAs claim that high fees as well as long bureaucratic processes for registration and licensing, especially for

agencies recruiting internationally, deter them from applying for a recruiter's license. Many PEAs are also not interested in formalization due to lack of necessary funding and capacity to satisfy requirements put forth in the licensing procedures by the FMLE. It would thus be favourable for the FMLE to simplify and shorten the licensing procedure for PEAs.

In addition, the competition between licensed and informal PEAs, notably the fact that informal PEAs can charge more and are not subject to paying taxes dissuades them from becoming legal entities (Adebosin, 2019). There are also no regulations on advertising in Nigerian media, therefore informal PEAs can post job advertisements without being investigated or penalized (Onazi, 2019). Due to the size of Nigeria as a country, many informal PEAs are able to function underground and escape detection by frequently changing their location and place of operation (ibid.). In addition, some agencies find ways around licensing to function. For example, there have been cases of recruiters using fake licenses to work with employers, though some have been apprehended after the employer verified the license number with the FMLE (ibid.). In addition, some licensed PEAs still charge fees for labour recruitment and do so fraudulently after submitting their quarterly inspection reports to the FMLE (ibid.). Increased government focus on regulation and monitoring of such agencies could contribute to addressing these challenges. Furthermore, upon placement of recruited workers, strict monitoring of the private sector employment would be beneficial to ensure staff welfare.

### **Spread public awareness of the risks of informal and unethical labour recruitment and its link to trafficking in persons and other forms of exploitation.**

According to respondents, there is a lack of awareness among the general population of differences between formal and informal agencies, the risks associated with utilizing the services of informal PEAs and that labour recruitment services should be free according to Nigerian law (Adebosin, 2019). Many people are also not aware of the existence of Migrant Resource Centres and the International Labour Migration Desk and as such do not take advantage of the services they offer to potential migrants (Osato, 2019). In addition, others lack awareness of links between informal recruitment and migration, trafficking in persons and migrant smuggling. It would thus be advantageous for the Government to organize awareness-raising campaigns on the risks of informal labour recruitment and information on how to find employment through licensed and regulated PEAs.

## **2.5. Senegal**

In Senegal, ethical labour recruitment has begun to receive government attention in the past five years though the subject itself remains largely unexplored in research. A study conducted by the International Catholic Migration Committee (ICMC) and the Migration and Development Civil Society (MADE) Network in 2018 is the only existing study on the topic of labour recruitment practices of Senegalese migrant workers. In addition, data on migration is sparse – the most recent country-wide census was conducted in 2013 (IOM, 2019f). According to the ICMC study, most of the labour recruitment that takes place in the country is through informal private recruitment agencies and agents (2018). This is also due to the nature of most recruitment practices in the country that take place illicitly. In addition, there is an absence of legislation currently in existence to regulate international labour recruitment and the activities of private recruitment and employment agencies.

The growing number of cases of abuse and exploitation of migrant workers in the Gulf countries, as reported by victims on social media platforms, have shown how important the region is becoming as a destination country for Senegalese citizens. It has also made clear the great need to spread awareness among potential migrants of the risks tied to informal recruitment and its link to trafficking in persons and other forms of exploitation.

In addition, civil society actors including local NGO DIADEM (Diaspora Développement Education Migration) in coordination with the ICMC, organized two events in 2018 on issues of international labour recruitment. The events engaged relevant actors at the national level, including NGOs, migrant associations and workers' unions, to discuss issues and suggest recommendations related to issues of international labour recruitment, migrant worker exploitation and the smuggling and trafficking of Senegalese migrants abroad. Most recently in January 2019, within the framework of the project Migration and Development Civil Society Network (MADE), DIADIEM and partners ICMC-Europe and the EU organized a training on informal and unethical international labour recruitment practices in Senegal that have led to cases of trafficking and smuggling of migrants. This event along with others that preceded it, including the Multi-stakeholder Meeting in 2018, have contributed to broadening the dialogue between national authorities, civil society organizations and ECOWAS participants at the national and regional level. They have furthered discussion on challenges, lessons learned and existing legal and institutional mechanisms regarding the issue of international labour recruitment.

These efforts were further expanded through a regional event in April 2019, coordinated by DIADEM and the ICMC along with other participants from ECOWAS. The event aimed to foster dialogue and the exchange of experiences in the aim of strengthening the knowledge and capacities of civil society organizations working on issues of irregular migration and its associated risks. It also developed more comprehensive mechanisms for migrant protection as well an advocacy strategy at the subregional level (IOM, 2019g).

### 2.5.1. Situational Analysis

#### *In-migration to Senegal*

As of 2019, approximately 275,000 international migrants were present in Senegal, constituting thus 1.7 per cent of the total country population (UN DESA, 2019). Main countries of origin include: Guinea (19.4%), Mauritania (16.9%), Mali (12.9%) and Guinea-Bissau (11.1%). In addition, French migrants constitute 5.2 per cent of total migrant stock (14,367 individuals) (ibid.).

Trends from a recent survey by IOM's FMM (Support Free Movement of Persons and Migration in West Africa) initiative indicate that migrant groups are involved in specific employment sectors; for instance, Guinean nationals are prominent in the fruit and vegetable trade and transport sector, Malian nationals are often involved in handicrafts and commerce, and high skilled jobs in the telecommunications and information technology sectors are often occupied by citizens from Côte d'Ivoire, Benin and Togo (IOM and ICMPD, 2015). Respectively, most European and American citizens are mostly high skilled workers, employed in the NGO, governmental and private sectors.

Formal recruitment of migrants to work in Senegal has mostly been identified with regards to highly skilled jobs in multinational corporations and NGOs or for low skilled work in factories, agriculture and mining. For example, the PATISEN agro-industrial factory has been linked to recruitment of foreign workers from neighbouring countries such as Guinea since they could offer to pay them lower wages than national workers (Ndiaye, 2018). Another trend is the increased presence of Chinese and Indian nationals working in the sector of construction for infrastructure projects as well as agriculture, though these individuals are usually recruited by Chinese and Indian companies in Senegal (IOM, 2019h). Many migrants are also recruited informally, either due to familial ties or other social networks, or come independently and find a job upon arrival rather than passing through a recruitment agent and securing a job prior to their arrival.

### *Out-migration from Senegal*

A large majority of Senegalese who emigrate leave for surrounding countries in the ECOWAS territory, particularly to Côte d'Ivoire, the Gambia, Mali and Mauritania (IOM, 2018f). Since the 2000s however, out-migration trends from Senegal have also increased to other regions, including South America, specifically to Argentina, Brazil and Chile, where Senegalese find work in the industrial and manufacturing sectors (ICMC, 2018). According to the most recent census conducted in 2013, the main destination countries in Europe were France, Italy and Spain (IOM, 2018f).

Furthermore, IOM has in recent years compiled data of irregular migration flows arriving in Europe. From this data, a prominent trend involves Italy being the principal destination for irregular migratory flows originating from Senegal towards Europe since 2016. Senegalese nationals were among the top ten nationalities to arrive in Italy in 2016, constituting approximately 6 per cent of total arrivals; in 2017, this trend continued as Senegalese once again constituted approximately 6 per cent of total arrivals (equaling approximately 49,000 individuals) (IOM, 2018d). However, 2018 saw a significant decrease in Senegalese arrivals in Italy with Senegalese nationals constituting 2 per cent of total arrivals, or the equivalent of 421 individuals (IOM, 2018c). Furthermore, Senegalese nationals were not amongst the top ten nationalities to arrive irregularly in Italy for the period of January-June 2019. Additionally, a new trend in 2018 and 2019 was the presence of Senegalese nationals amongst the top ten nationalities to arrive in Spain during this period; in 2018 Senegalese constituted 2% of all sea arrivals (approximately 1,100 individuals) and 8 per cent (approximately 800 individuals) of all sea arrivals during January-June 2019 (IOM, 2019b). However, these figures do not take into account the number of migrants present in other locations along the irregular migration route, such as the Niger, Algeria and Libya.

Flows have also increased to countries in the Gulf region, specifically to Qatar, Saudi Arabia and the United Arab Emirates for work in low-skilled sectors including construction, medical assistance, domestic work, security services, household cleaning among others (Diallo, 2018). As there are currently no studies or data on migration trends from Senegal towards the region, the observation is based mainly on testimonies of returned migrants from countries in the Gulf. Several testimonies of migrants who had experienced exploitation and abuse have surfaced on social media platforms, spreading awareness of the growing risks associated with migrating to the Gulf region among the public. Specifically, the case of domestic worker Mbayang Diop, who was imprisoned in Saudi Arabia for murdering her employer after alleged abuse charges, caused public outcry and prompted the Government to publicly address the phenomenon of migration to the Gulf, specifically for migrant domestic workers (Ba, 2018).

### *Labour recruitment: Identified trends and issues in Senegal*

It is increasingly difficult to track the methods of recruitment used to send Senegalese migrants to countries of destination, especially in countries where migration for low-skilled occupations is predominant. What is known of the labour recruitment process in Senegal is only what occurs in private interim and national recruitment agencies, which are registered with the Government and function mostly on the national level.

Licensed private agencies in Senegal brought up a number of issues they felt hindered ethical labour recruitment at the national level. For instance, interim agencies claimed they often found themselves in conflicts between employers and workers. In such cases, like that of an abusive contract, agencies sometimes felt powerless and that they could not support the rights of workers without losing business from the employer (Malouf, 2018). They also had the impression that workers could incriminate themselves in such cases by not understanding their contracts thoroughly or failing to communicate with the agency if they did not understand all requirements and expectations of the contract and employer (Ndiaye, 2018).

Another issue they referred to is the lack of regular communication between employers and private agencies. For instance, in cases that workers were hurt on the job or complained about long hours or inadequate benefits, employers fired them on the spot without alerting the recruitment agency. The PEA Forma Recrut claimed this was because employers did not respect legal requirements and implications of their partnership with the recruitment agency (Malouf, 2018).

The activities of informal agencies or agents occur underground, over social media or other online channels, making them more difficult to track and uncover. International labour recruitment and placement of Senegalese abroad occurs predominately through informal agencies, whose actions have also been tied to trafficking in persons, especially of women in the domestic and service sectors.

Informal labour recruitment often takes place over social media networks, including Facebook and WhatsApp, where job advertisements are posted and recruiters seek out candidates, collect personal information necessary for visa procedures, relay work contracts and plan transportation to countries of destination. The MADE Network affirmed that a large majority of jobseekers recruited by informal agencies never see their recruiter in person, as most communication is held over social media or the telephone (Ba, 2018). It has also been found that some agencies and agents in Senegal cooperate with visa and travel agencies in destination countries and supply visas to jobseekers with approval from a “fake employer”, or a contact in the destination country. These visas are then supplied without a contract or job in the destination country (Ndiaye, 2018). Jobseekers may not be aware of the implications of a taking a visa not meant for employment or be led to believe that a job will be awaiting them abroad even without the appropriate documentation. In the latter type of situation, migrants may find themselves stranded in these countries without jobs, putting them in more vulnerable situations and at risk to abuse and exploitation.

The MADE Network reported various abuses identified in the labour recruitment industry in Senegal, chief among them high recruitment fees and extortion of jobseekers (ICMC, 2018). For instance, migrants going to the Gulf region could be charged from USD 2,200–3,400 for their visa and transportation fees. Fraud and deception were also exercised to take advantage of clients’ lack of knowledge regarding destination countries and the labour recruitment process. Migrants received little to no information regarding jobs prior to departure, received contracts written in languages they did not understand (such as Arabic) and without adequate translations and did not receive personal copies of the contract to keep. In addition, many migrants were not given any information pertaining to the realities of working abroad, such as number of working days and hours and working conditions, amount and method of payment, type of accommodation and number of days of vacation. Another risk identified in the labour recruitment industry in Senegal is manipulation by capitalizing on religion, for instance convincing parents that having their daughter work for several years in Saudi Arabia would raise enough money for all of them to complete the pilgrimage to Mecca.

As mentioned previously, informal labour recruitment from Senegal has been linked to trafficking in persons, especially of domestic workers to countries in the Gulf region. Methods of labour recruitment identified in this specific channel include through both formal and informal agencies. According to a recent study conducted by the Made Network, two official registered agencies for placement of domestic workers exist at the national level (2018). Individual recruiters can also sometimes be former domestic workers themselves (ICMC, 2018). It has also been noted that these recruiters engage in a three-month trial period once the domestic worker is hired, during which recruiter keeps in contact with the worker and after which all communication is cut off (Ba, 2018). Abuses identified in the labour recruitment of domestic workers also includes fraud and deception regarding the contract and working conditions and the withholding of information such as the destination country (ICMC, 2018).

## 2.5.2. Labour Migration Management at the National Level

### *Roles and Responsibilities of Government Offices*

Senegal does not have an interministerial structure that decides on the process of migration policy development, but the development of the National Migration Policy was led by the Ministry of Economy, Plan and Finance. Several government ministries and bodies carry out sectoral actions pertinent to migration policy relating to their mandates (IOM, 2009). The management of labour migration is stratified in a number of different ministries and directorates of the Senegalese government.

The Government of Senegal currently does not have an implemented labour migration policy. The National Migration Policy was drafted in April 2018 by the Directorate for the Development of Human Capital at the Ministry of Economy, Plan and Finance, and in partnership with IOM. The Policy has been endorsed at the technical level and is currently awaiting political endorsement. The Policy recognizes the need to improve efforts for counter-trafficking and alternatives to irregular migration. It also refers to labour migration but focuses on facilitating diaspora engagement, ensuring social protection and the social security portability of migrants and their families and assisting migrants with return and reintegration (République du Sénégal, 2018a).

The Ministry of Labour, Social Dialogue and Professional Organizations (Ministère du Travail, du Dialogue social, des Organisations Professionnelles et des Relations avec les Institutions) is the focal point for labour migration. The Ministry promotes prospective job offers available on the market and supports young graduates entering the labour market by offering them internships with companies. It also oversees job offers from foreign companies (IOM, 2018f). This Ministry is also the Chair of the Commission of management and monitoring of job vacancies, a structure that was put in place as part of a partnership with Spain and France to develop a programme to promote regular migration. As part of this partnership, the Commission manages fixed-term employment contracts in Spain and indefinite duration contracts with France. This ministerial department has also set up a system for identifying jobseekers on the national level, based on the registration of jobseekers at the Departmental Centres for Popular Education and Sports (CEDEPS) (IOM, 2018f). This Ministry also protects the rights of Senegalese migrant workers abroad and is involved in the negotiations regarding regular and professional labour migration (IOM, 2009).

The Directorate of Employment, as part of the Ministry of Labour, supports the management of labour migration (IOM, 2018f). The Directorate is responsible for the drafting of laws and regulations on employment, for monitoring the implementation of laws and regulations and the application of international conventions and bilateral and multilateral employment issues.

The Directorate of Labour and Social Protection, also part of the Ministry of Labour, is actively involved in activities related to labour migration and social security. The Directorate is responsible for developing laws and regulations related to employment and social security. It also monitors the enforcement of laws and regulations for private and public employers, while ensuring international labour standards and international bilateral and multilateral agreements are enforced. The Directorate represented Senegal in negotiations on regular migration and bilateral labour agreements coordinated with destination countries for the Senegalese workforce, through the Directorate for Business, the Europe-America-Oceania Directorate, the Directorate of International Organizations, the African Economic Integration Directorate and the Africa-Asia Directorate (IOM, 2009).

The Ministry of the Interior (MOI) is the government structure responsible for signing agreements pertaining to regular labour migration. The Directorate General of National Security is the operational arm of the Ministry of the Interior, overseeing the implementation of the National Migration Policy in Senegal (ibid.). In addition, the Directorate for Police, Air and Borders,

(Direction de la Police de l'Air et des Frontières) under the MOI, is responsible for the admission and management of migrants, import control against trafficking in drugs, trade and human beings. Its' trafficking in persons unit addresses trafficking risks at the border (ibid.).

The Directorate for Senegalese Abroad of the Ministry of Foreign Affairs (Direction Générale d'Appui au Sénégalais de l'Extérieur (DGASE) under the Ministry of Foreign Affairs, functions through a number of consular offices abroad. The DGASE is responsible for ensuring the implementation of measures to protect and promote the interests of Senegalese nationals living abroad. Through its BAOS offices (Bureaux d'Appui et d'Orientation des Sénégalais de l'Extérieur), the DAGSE provides information, while promoting local economic opportunities and corresponding procedures to Senegalese living abroad as well as potential migrants in Senegal (IOM, 2018f). In addition, a new Secretariat in charge of Senegalese living abroad was created in February 2019, whose responsibilities focus on supporting the diaspora and promoting their role in the development process including through the transfer of remittances and skills (IOM, 2019g).

### *Public Employment Systems and Labour Migration Management*

Outside of current Bilateral Labour Agreements, labour recruitment by the Government is only limited to positions in the public sector. The Ministry of Public Service, Staff Rationalization and Public Service Renewal (Ministère de la Fonction Publique, de la Rationalisation des Effectifs et du Renouveau du Service Public) is responsible for labour recruitment at the national level. The Ministry promotes and advertises job offers and seeks out potential workers for the public sector by means of an online platform, the "Plateforme de Gestion des Demandes d'Emploi," on which citizens can create an account and then search and apply to job opportunities (République du Sénégal, 2019). The Ministry also supports and assists graduates in entering the public sector job market (IOM, 2009). In the past, the Office for the Workforce (Bureau de la Main Oeuvre) assisted jobseekers in finding positions with private companies in Senegal, though it was closed in 1997 (Diallo, 2018).

The Department of Labour and Social Protection (la Direction du Travail et de la Protection Sociale (DTPS) of the Ministry of Labour, Social Dialogue, Professional Organizations (Le Ministère du Travail, du Dialogue Social, des Organisations Professionnelles et des relations avec les Institutions) is responsible for drafting laws and regulations in the field of labour and social security in coordination with the Directorate for Employment (DE), trade unions, workers and employers' associations. The DTPS also monitors the application of laws and regulations with regard to private and public employers and institutions. In addition, the DTPS enforces the application of international labour standards and monitors the application of the international bilateral and multilateral agreements on labour migration (IOM, 2018f). The DTPS also manages relations with businesses abroad in the private sector and their recruitment and placement activities (ICMC, 2018). Lastly, the DTPS facilitates labour inspections of private recruitment agencies and their placements.

Under the Ministry of Youth (Ministère de la Jeunesse, de la Construction Citoyenne et de la Promotion du Volontariat), the National Agency for the Promotion of Youth Employment (ANPEJ) promotes job placement and employment for young people, though it is not directly involved in the labour recruitment process. ANPEJ posts job offers on their website, liaises with private enterprises in proposing their jobs to youth (for example, Sonatel and Tigo) and orients youth towards companies that are hiring. ANPEJ also manages the National Commission on Job Offers, a platform through which it circulates job offers, supervises the selection of candidates and ensures respect of work contracts. ANPEJ views migration as an opportunity for young applicants searching for employment.

Under the Ministry of Youth, the Information System for Efficient Migration Management (SIGEM) has also been established. The purpose of this database is to contribute towards the assessment of the national labour market in gathering information on potential Senegalese candidates for out-migration in order to determine which competencies/occupations to promote abroad. However, information and in-depth analysis on the Senegalese national labour market is still lacking (IOM and ICMPD, 2015). Furthermore, the National Commission of Job Offers, established in 2008, has the role of documenting the employment sectors and categories of occupations available in “partner countries”; this undertaking is however limited to countries with which Senegal has concluded bilateral labour agreements and primarily, France and Spain (ibid.).

The recently developed National Migration Policy mentions labour recruitment as an issue related to trafficking in persons and is a component of various BLAs that Senegal has signed with other countries. The National Migration Policy does not however explicitly mention the problems posed by private recruitment agencies nor does it impose any regulations on the activities of such agencies and agents (République du Sénégal, 2018b).

Officially, pre departure orientations for migrant workers are not mandated by law. On the government level, the DGASE of the Ministry of Foreign Affairs coordinates BAOS offices (Bureaux d’Appui et d’Orientation des Sénégalais de l’Extérieur), responsible for monitoring and assisting Senegalese migrants and diaspora abroad. These offices also coordinate pre-departure activities and provide social and technical assistance to Senegalese nationals while abroad and after their return home (Cisse, 2018). In addition, under specific circumstances such as the seasonal migration scheme previously operating between Senegal and Spain, the International Labour Organization organized pre-departure courses to inform selected migrant workers of living and working conditions in Spain (IOM and ICMPD, 2015).

#### *National, international, regional and bilateral frameworks related to labour migration*

With regards to national legislation, Senegal’s Labour Code of 1997 contains provisions on both foreign workers’ rights within employment in Senegal as well as access to the national labour market. These provisions include:

- Equal treatment between foreigners and nationals, foreign workers are thus subjected to both all obligations and protections found within the national labour legislation (Art. L1);
- Transportation costs from the foreign worker’s country of origin to the place of employment must be borne by the employer, as is also applicable to the foreign worker’s immediate family (spouse and children who are minors) (Art. L156);
- Housing must be provided by the employer (Art. 106);
- Approval is required from the General Direction of Labour and Social Security within the Ministry of Public Service, Labour, Social Dialogue and Professional Organizations for work contracts that include “the establishment of the worker outside of his/her place of habitual residence” (Art. L33 and L34).

In addition, the Law to Combat Trafficking in Persons and Related Practices and to Protect Victims was established in 2005 and notably criminalized both sex trafficking and labour trafficking; the law is currently being revised in order to establish individual pieces of legislature for trafficking in persons and migrant smuggling (US Department of State, 2019). As is the case with the other national counter-trafficking legislations found within this report and in line with the Palermo Protocol, this law also refers to labour recruitment within its definition of trafficking in persons (République du Sénégal, 2005), thus establishing a direct link between recruitment, placement (which could be disguised under the auspices of seemingly regular recruitment) and trafficking in persons. Senegal’s National Anti-Trafficking Unit was however not created until 2010 under decree n° 09051; as per the decree, the entity’s functions are mainly limited to



alerting authorities of trafficking in persons cases brought to its attention; propose legislative modifications related to trafficking in persons; establish and lead awareness initiatives; set up regional counter-trafficking structures within the country (République du Sénégal, 2010).

With regards to international legislation, the Government of Senegal has currently ratified the following conventions and agreements.

- The International Covenant on Civil and Political Rights (1966);
- The International Covenant on Economic, Social and Cultural Rights (1966);
- The Convention on the Elimination of All Forms of Discrimination against Women (1979)
- The Convention on the Rights of the Child (1989);
- 37 ILO Conventions including the Convention on the Protection of Rights of all Migrant Workers and Members of their Families (1990);
- The United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

Senegal has ratified 38 ILO Conventions (out of which 32 are currently in force) (ILO, 2019b). However, not yet ratified are Convention 181 on private employment agencies, Convention 97 on the rights of migrant workers, Convention 143 on Migrant Workers (Supplementary Provisions) and the Equality of Treatment (Social Security) in Convention 118.

On the regional level, Senegal is bound by ECOWAS texts including the ECOWAS Treaty (1975) and its subsequent protocols, such as the Protocol on Free Movement of Persons, Residence and Establishment (IOM, 2018a).

Senegal has also signed a number of MoUs and BLAs with provisions on migration with other countries. Currently, the yet the only currently functioning BLA is one signed with Qatar in 2010 (Diallo, 2018). It is also important to note that in the past, Senegal signed several BLAs with countries in the Gulf region, including with Saudi Arabia (signed in 1988) and with Kuwait (signed in 1992), to organize employment of Senegalese migrant workers in the construction sector (IOM and ICMPD, 2015). However, these agreements are no longer functioning.

A list of recently signed MOUs and BLAs with provisions on migration are detailed below:

<b>Senegal–Qatar</b>	The BLA was signed in 2010. It promotes migration of low-skill workers from Senegal to Qatar, in sectors of construction and medical assistance (nursing) among others. The BLA does not pertain to domestic workers. Contracts are limited to 3 years but are renewable. The Department of Labour offers orientation to migrants prior to their departure, which includes ensuring they understand their contract and conditions of work abroad. A mixed committee made up of Senegalese and Qatari ministers and officers meet every three years to evaluate the success of the BLA. The last meeting was in 2017 in Qatar.
<b>Senegal–United Arab Emirates</b>	According to the Department of Labour, this agreement is in the process of being formulated. The LD plans to have implement similar terms in the BLA as for that with Qatar, focused on low-skilled workers.
<b>Senegal–Spain</b>	A MOU was signed in November 2007 by the Ministry of Labour and Social Affairs in Spain and the Ministry of Youth in Senegal. The MOU established a programme that would be implemented by an agreement and aimed at training, selection and recruitment of 2,000 Senegalese workers in the fisheries sector for a period of two years.

<b>Senegal–France</b>	In September 2006, this BLA established partnership for migration management between the two countries. Specifically, it comprises of several agreements regarding regular migration, such as providing information on the trades which, in each of the two countries, are experiencing difficulties recruiting at the national level and could benefit from labour recruitment from abroad. It also provides actions to limit and address irregular migration, the readmission of Senegalese nationals in irregular situations and the reinforcement of border controls.
<b>Senegal–Gabon</b>	BLA signed in 1982, but never ratified by Gabon. Pertains to the placement of Senegalese migrant workers in the sector of education (IOM and ICMPD, 2015).
<b>Senegal–Mauritania</b>	BLA signed in 1972, aims to facilitate worker mobility between the two countries (IOM and ICMPD, 2015). BLA signed in 1992 regarding the movement of persons and goods.
<b>Senegal–Morocco</b>	BLA signed in 1964, pertains to equal access to the labour market for nationals of both parties (IOM and ICMPD, 2015).
<b>Senegal–Saudi Arabia</b>	BLA signed in 1988, pertains to the arrangement of employment of Senegalese migrant workers in the construction sector (IOM and ICMPD, 2015).
<b>Senegal–Kuwait</b>	BLA signed in 1992, pertains to the arrangement of employment of Senegalese migrant workers in the construction sector (IOM and ICMPD, 2015).

### *Private Employment Systems*

According to the Ministry of Labour, there are over 100 private recruitment agencies currently functioning in Senegal, consisting of both formal and informal businesses. Two types of such bodies exist. The first are interim agencies, which function only at the national level. Interim agencies facilitate temporary work contracts (often last minute) for workers and broker deals and negotiate contracts between the client company (employer) and the jobseeker. Temporary agency work provides flexibility for employees who opt to be available intermittently on the labour market. Secondly, private recruitment agencies function as intermediaries between employers and jobseekers, offering job matching and training services more permanent or long-term positions. Unlike the case of Ghana, there is no organization or union representing the rights of private employment or recruitment agencies at the national level (Ndiaye, 2018).

The Ministry of Labour, among other ministries, has observed a substantial rise in the number of informal PEAs and demand for their services since 2014 (Diallo, 2018). As such agencies function underground and do not pay taxes nor fees to the Government, they also charge lower fees for recruitment than formal agencies (Malouf, 2018). The majority of international labour recruitment is carried out by such informal agencies, as formal agencies or public labour recruitment services facilitating international regular mobility are rare.

Informal PEAs in Senegal have various structures. They may be individual agents that are already employed and then facilitate labour recruitment as a side business for additional income. They can also be completely unofficial bodies that function through social and familial networks (ICMC, 2018). Many agencies function as fronts; businesses posed as travel agencies, shops, real estate agencies, communications agencies, or human resources agencies (Ndiaye, 2018).

In some formalized agencies, pre departure orientations are given by agency staff that include training and information about the country of destination and workplace conditions. Some agencies also propose training curriculums, such as for skills development, which are then carried out by the employers themselves upon hiring workers. However, as a large number of

international private agencies are informal, it is difficult to determine whether agencies offer such services to migrants prior to sending them abroad.

For the purpose of this study, four private recruitment agencies were interviewed.<sup>12</sup>

**Recruitment Agency 1**, categorizes itself as both an interim and direct labour recruitment agency at both national and international levels. The agency is registered as a business and regularly pays taxes and fees for social security. It is also regularly solicited by the Government to subcontract job offers. It also uses a database to keep track of jobseeker Curriculum Vitae. It also works regularly with a number of private corporations.

Primarily, the agency recruits on the national level, mostly in the Dakar urban area in the sectors of business, management, transportation (drivers), finance (accounting) and human resources. It has also recruited for positions such as drivers in Saint Louis, manual labourers in Kaolack and gold mine workers in Sabodala and Thies. It also recruits occasionally on the international level. Most often, it recruits Senegalese nationals living abroad who are interested in returning home to work. The director of the agency claimed the number of Seneglaese in the diaspora seeking services of private recruitment and employment agencies has significantly risen in order to secure jobs prior to returning.

The agency itself does not train jobseekers but rather proposes training curriculums to companies, who are then in charge of training workers when they are formally hired. It also empowers workers and grants access to legal services. In the case that workers complain or report infringement, the agency interviews them and then approaches the company with the issue as explained by the worker in order to decide how best to solve the issue without taking it to court. The agency also ensures workers' rights are upheld; workers are told their rights at the national/international level prior to finalizing the placement.

In the past, the agency has faced issues with cases of exploitation experienced by workers. In some cases, it could not represent workers when issues were brought up against employers. If the agency stood up for the worker in court, it would be dropped by the employer and lose business. In these cases, the agency felt it had no choice than to take the side of employers in order to keep them as clients. Other issues the agency has faced is employers often failing to communicate if they experienced issues with workers, sometimes terminating their workers' contracts without alerting the agency.

**Recruitment Agency 2** is another formal private agency that recruits mostly on the national level, in the sectors of information technology, telecommunications, administration, management, as well as manual labour. The agency recruits rarely at the international level, primarily Senegalese diaspora living abroad who come back to work. It is also in the process of securing partnerships with human resources agencies abroad and recently established one with an agency in France.

The agency keeps track of workers' Curriculum Vitae in an online database, including their sector placement and respective skills or demands. It produces monthly reports of candidates placed in various sectors in addition to other activities. The agency also trains jobseekers, by preparing them for interviews with employers and providing induction training, though this depends on the type of job.

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<sup>12</sup> For legal and other purposes, these organizations will be kept anonymous and referred to as "Recruitment Agency 1, 2, 3", etc.

The agency has faced some issues in the past, specifically with workers who have had trouble integrating themselves in their new workplace. Most of these are from workers in less-skilled sectors such as manual labour, a sector in which the the agency's director claims that workers are less likely to know their rights and seek out assistance in the case problems arise.

**Recruitment Agency 3** is a private recruitment agency that provides mainly labour recruitment services, both for permanent and temporary positions, as well as training. It recruits both in person at its office as well as online via its online platform; here, candidates can sign up and submit their Curriculum Vitae and apply to various job positions posted by the agency.

The agency also recruits both on the national and international levels for a range of high and low skilled positions in various sectors. In Senegal, the agency has recruited over 3,000 candidates in all employment sectors for a range of low and higher skilled positions, mostly with private companies as well as multinational businesses and international NGOs.

On the international level, the agency has recruited less than 100 candidates mostly to other countries in the subregion, including Cameroon and the Gambia. Labour recruitment outside of Senegal has been mostly for mid to highly skilled positions in the energy sector, including in oil/gas and electricity. In the past, the agency also operated two separate offices in Nouakchott, Mauritania, as well as in Conakry, Guinea, through which it recruited local candidates for positions inside those countries. However, these offices have since been closed due to lack of adequate funding as well as limited business opportunities available. In addition, since a large majority of positions for international labour recruitment are highly skilled, candidates do not receive training nor an orientation prior to their departure. For candidates recruited for more low skilled positions, they are given a short explanation of work expectations in the chosen country, but not a comprehensive "pre-departure" orientation.

**Recruitment Agency 4** is a continental labour recruitment agency based in Mauritius with an affiliate office based in Dakar. The agency is registered with the relevant corporate affairs commission and the Ministry of Labour and pays taxes locally.

In Senegal, the agency recruits for local positions in sectors of mining, oil and gas, construction, tourism, telecommunications, as well as solar energy. Regarding the recruitment of Senegalese candidates for positions abroad, the agency has noticed an increasing pattern of IT professionals recruited for positions in Europe, as well as for positions in the banking and insurance industry in the West African subregion. As in Côte d'Ivoire, the agency has noticed a growing trend in of increased recruitment of Senegalese diaspora to return to their countries of origin or to other countries in the ECOWAS subregion.

### *Regulation of Labour Recruitment and Private Recruitment Agencies in Senegal*

Pertaining to the regulation of labour recruitment, the Government of Senegal does not currently have a system of laws in place to regulate private employment and recruitment agencies (Diallo, 2018). There are no specific registration requirements for employment or labour recruitment, and it is not mandatory for them to be registered with the Government; PEAs follow the same registration procedures as regular businesses and register with the Chamber of Commerce in Dakar (Chambre de Commerce, d'Industrie et d'Agriculture de Dakar).

In 2009, the Government passed a law regulating the activities of interim agencies, which focused on temporary work in Senegal and regulates the relationship between interim agencies, employees and employers at the national level. The law aims to structure activities by restricting all work contracts to a maximum duration of two years, after which, employers must renew the contract (Malouf, 2018).

In addition, there is no penal code for agencies caught functioning informally, unless the recruiter is directly convicted for trafficking in persons and evidence exists to support this conviction (Diallo, 2018). Information gathered from the interviews with PEAs, showed that agencies may be unaware that formal registration as a private recruitment agency in Senegal was mandatory (Malouf, 2018). These findings suggest that incentives to register and formalize are very low in an environment where informal agencies dominate.

According to IOM's recent report from the ACP-EU Project (Dialogue on Migration and Development between African, Caribbean and Pacific (ACP) and European (EU) countries), Senegalese labour legislation contains only one decree regulating the recruitment of domestic workers abroad that is significantly outdated and fails to provide any regulation for agencies. This renders workers vulnerable to exploitation by employers, recruiters and transporters (IOM, 2018g).<sup>13</sup> The Labour Department claimed they had an instance of confrontation with a private agent who was attempting to recruit and place Senegalese domestic workers in the Gulf region. Upon inspection of the contracts offered to the workers, the DOL concluded they were fraudulent and confiscated the contracts (Diallo, 2018). However, the DOL did not have the legal right to ban the agent from functioning and found out later that the agency had continued to send workers abroad without their approval.

### 2.5.3. Non-State Actors and Labour Migration

Many trade unions exist in Senegal but none that promote ethical labour recruitment in particular. La **Comité d'Actions et de Reflections Intersyndicales sur la Migration (CARISM)**, is an umbrella organization which regroups trade unions involved in migration in Senegal. Under this organization, CARISM lobbies for the protection of migrant worker rights and those of their family members (Sene, 2018). This Committee also set up a Platform of Senegalese Stakeholders for Migration, where they coordinate and guide civil society organizations and migrant associations on migration issues according to the trade unions activities, mandate and their common needs.

The **CNTS (Confédération Nationale de Travailleurs au Sénégal)** is a major trade union, which focuses its efforts on extending social protection to Senegalese abroad especially in the informal sector and lobbying for policies that will strengthen economic sectors to increase employment at the national level (Kamara, 2018). In the past, the CNTS organized several events related to the rights of migrant and domestic workers, such as the "Comité 12 x12" campaign lobbying for ratification of ILO Convention 189 in addition to community-based projects assisting with integration of Sierra Leonean and Guinean migrant communities in Senegal (ibid.).

The **UDTS (Union Démocratique des Travailleurs du Sénégal)** is the country's fourth largest trade union. The UDTS has developed strong relations with unions in Europe, particularly in Italy, where it has opened an office. The UDTS assists migrants with information and orientation upon arrival in Senegal, as well as awareness-raising about their rights and integration into Senegalese society. The UDTS has spoken out specifically about issues related to ethical labour recruitment at forums (Sene, 2018).

According to major trade unions in Senegal (UDTS and CNTS-FS), migrant workers rarely join unions as members upon moving to Senegal, instead joining migrant associations with fellow individuals from their countries of origin (Kamara, 2018). Conversely, these unions noticed that migrants who had been members prior to departing Senegal to work abroad frequently lost touch with that trade union after spending some time abroad (ibid.).

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<sup>13</sup> ACP-EU Report Trafficking and Smuggling in Human Beings.

The **Confederation Nationale des Employeurs de Senegal (CNES)** is the national employer's association in Senegal. CNES works to promote private investment, competitiveness of companies in Senegal, employment, social peace and regional integration. The confederation is made up of several professional federations, trade unions and national employers' associations from various sectors (CNES, 2019).

**DIADEM (Diaspora Développement Education Migration)** is a non-for-profit organization that promotes dialogue of migration, mobilities, development and education questions between different actors in Senegal (DIADEM, 2019). As mentioned previously, in coordination with the ICMC, DIADEM organized two events in 2018 to promote dialogue and action regarding issues of international labour recruitment in Senegal (Ndiaye, 2018).

The **Association de Migrants de Retour d'Arabie Saoudite** is local association founded by Farma Ba in 2017 after Ms Ba herself returned from Saudi Arabia where she had endured abuse as a domestic worker. The association facilitates dialogue between female Senegalese migrant workers in Saudi Arabia and those at home through social media. They facilitate their return home and provide support in case of abuse or need. Currently, the Whatsapp group consists of 44 members, which are all returnees from Saudi Arabia (Ba, 2018).

#### 2.5.4. Main Barriers to Ethical Labour Recruitment and Migrant Worker Protection and Recommendations

The above sections shed light on a number of barriers stakeholders face to promoting ethical recruitment and protecting migrant workers in Nigeria. Specific challenges and recommendations are discussed below.

##### Increase government cooperation and coordination on labour migration management and migrant worker protection.

Government responsibilities related to labour migration and protection of migrant workers are stratified across many ministries, leading to difficulties in management and cooperation in addressing these issues. It would thus be beneficial for Senegal to create a primary agency to be responsible for labour migration management and ensure cooperation between all relevant Ministries on the enforcement of policies and laws regulating the activities of private recruitment agencies and international labour recruitment.

##### Establish a regulatory framework for private labour recruitment.

It would be useful for the Government to implement legislation to regulate the activities of private recruitment agencies and a penal code applicable to agencies identified as operating without a license. Since registration and licensing is optional for PEAs in Senegal, the incentive to register remains low.

##### Ratify key international conventions.

It would be advantageous for the Government to ratify key international conventions related to the rights of migrant workers, including the Convention 181 on Private Employment Agencies, Convention 97 on Migrant Workers and Recommendation 86 and Convention 143 concerning Migrant Workers in Abusive Conditions and the Promotion of Equal Opportunity and Treatment of Migrant Workers (IOM, 2018f). The ratification of these conventions is key in ensuring the protection of both migrant workers in Senegal and of Senegalese migrants abroad, as well as in providing essential standards to which all entities undertaking labour recruitment practices should adhere.

## Spread public awareness of the risks related to informal labour recruitment and its links to trafficking in persons.

Another identified challenge is the general lack of awareness and available information in the general populace regarding the threats associated with informal agencies. Labour recruitment undertaken by informal agencies can not only result in high fees paid by jobseekers, but can also heighten the risk of jobseekers being subjected to trafficking in persons and migrant smuggling; as their labour recruitment and employment process is unregulated, this allows traffickers and smugglers to operate more freely both on national and international levels. It would be thus be advantageous for the Government to organize awareness-raising campaigns on the risks of informal labour recruitment and information on how to find employment through licensed and regulated PEAs.





# 3. CONCLUSIONS

## Common barriers shared by case study countries

As the research findings indicate, it is apparent that a large number of agencies and agents currently function informally in the case study countries. Subsequently, the activities of informal agencies have been found to be closely tied to exploitation. From fraud to extortion, high and non-refundable recruitment fees, unsecure and unclear contracts and expectations of work and life abroad, these practices have often led to abuses such as debt bondage, exploitation and trafficking in persons upon the migrant's arrival in the host country, especially for labour recruitment to the Gulf region. Furthermore, the lack of awareness of the difference between formal and informal agencies among potential migrants has increased risks associated with informal recruitment, including trafficking in persons and other forms of exploitation.

Since official mechanisms to facilitate international recruitment are still in the process of being fully developed in the case study countries, private employment agencies have become the primary actors to do so. Without the appropriate regulatory frameworks and penal codes in place, informal agencies can send citizens to work abroad without providing them with adequate information and protection, which puts them at increased risk of abuse and exploitation while working abroad. Though governments are aware of this alarming trend, concrete actions to promote regular migration channels and implement measures to address and prevent informal and unethical recruitment at its source are still in the process of being elaborated.

The research has identified a number of prevalent traits on the government level, which underline common gaps and challenges governments face in managing labour recruitment and protecting migrant workers in the West African region. Primarily, official mechanisms set up by governments for the purpose of facilitating international labour recruitment processes are lacking. In Ghana and Nigeria, few channels are being set up by the Government, but which require further coordination and implementation. In addition, legislation to regulate private labour recruitment as well as measures for penalizing informal agencies are lacking within the case study countries. Those that do exist are not stringent enough to deter agencies from functioning informally and are also not adequately enforced. Monitoring mechanisms are also not yet fully developed. Out of the five case countries, only Nigeria and Ghana require private recruitment agencies to register with the Government, mandating distinct licenses for both national and international labour recruitment, while overseeing their contracts and requesting regular reports. In Côte d'Ivoire, Senegal and the Gambia, such legal frameworks have not yet been established, which hinders governments from penalizing informal agencies or agents and monitoring their activities.

Government work on prevention has also thus far seldom focused on establishing and ensuring that formal labour recruitment channels are accessible to migrant workers, through measures such as Bilateral Labour Agreements. It has also rarely focused on improving understanding of the linkages between informal and unethical recruitment and trafficking in persons and other forms of exploitation. Instead, governments have passed measures in the aim of impeding labour migration and recruitment to certain regions in which abuses of migrant workers have been most prevalent. These measures have been recognized on one hand as having positive impacts including decreasing flows and instances of abuse experienced by migrant workers recruited to these countries. On the other hand, they sometimes have adverse effects, such as prompting previously formal agencies to take their practices underground in order to continue their labour recruitment activities to the restricted regions.

The research also uncovered a lack of coordination and joint strategy at both national and regional levels in regard to managing informal and unethical recruitment and its link to trafficking and exploitation.

Furthermore, only several countries in the region have a national migration policy or a labour migration policy. Ghana has drafted and validated a national labour migration policy but is still in the process of being fully implemented. Senegal and the Gambia have national migration policies, which are both in the process of endorsement and have yet to be put into effect. While these policies may reinforce the necessity of incorporating clauses on decent working conditions for migrant workers in bilateral agreements between the country of origin and destination countries, there has been limited action to ensure this aspect.

In addition, the delayed full implementation of the all three Phases of the ECOWAS free circulation agreement has made it difficult for governments to regulate the labour migration of citizens wishing to stay and work, including ensuring these persons apply for visas after the initial visa-free 90-day stay. In the ECOWAS zone, it has also become easier for citizens to leave their countries of origin and seek labour recruitment services, which may at times be informal, in other member States in countries where immigration policies and procedures may be less stringent, thus ending up staying irregularly.

## Joint proposed recommendations

The following final recommendations should be reviewed by the case countries to generally improve their oversight of labour recruitment practices and promote formal migration pathways as an alternative to informal labour recruitment.

### Governments

#### Enhanced data collection and analysis on labour migration and related issues.

Governments should prioritize and enhance the capacities of respective bodies in charge of data collection, analysis, dissemination and research on trends related to labour migration, recruitment, trafficking in persons, as well as on the working conditions of migrants both inside the country and abroad. The main objective of these efforts would be to enhance the quality and relevance of data and utilize it to support evidence-based policymaking.

#### Establishment of key national legislation and policy on migration issues.

Primarily, it would be beneficial for governments to develop a national migration and labour migration policy if they do not yet exist, and ensure these policies are designed and implemented in line with regional migration standards put forth by ECOWAS. In addition, countries should ensure they possess national legislation pertinent to labour issues, trafficking in persons, private recruitment agencies and human rights protections for workers and migrants. This national legislation should ideally be harmonized across ECOWAS countries due to the existence of the Protocol A/P1/5/79 relating to free movement of persons, residence and establishment and the relevant supplementary protocols. Equal protections and regulations should be provided in all countries in order to ensure adequate protection for all ECOWAS citizens working within the region; this will furthermore help to avoid rendering one country more advantageous in terms of workers' rights and protections and therefore more attractive for migrant workers, which could lead to a potential flooding of the national labour market with a disproportionate number of migrant workers.

## Establishment of a regulatory framework for private labour recruitment.

It would also be beneficial for all governments to systematically establish a regulatory framework for private recruitment agencies, including a system of licensing, monitoring of labour recruitment and inspection. Such laws should require agencies to register and pass a certification process with the appropriate governmental authorities, which should be simple, inexpensive and not time-consuming for agencies. Recruiters should be provided with formal recruiters' licenses or another legal document to certify their authorization to function by the government. Private agencies should be incentivized to register with the government through various means, such as capacity-building opportunities to formalize their activities, access to a platform to get in touch with potential clients and employers, enhanced visibility of licensed private recruitment agencies via government platforms and promoted liaison of private agencies with national educational institutes to promote simultaneously the agencies' activities as well as the recruitment of young professionals.

In the same vein, labour inspectors should be required to monitor agencies and evaluate contracts before agencies can send their country nationals to work abroad. This should also include the creation of a pre-departure orientation for future migrants, which would be made mandatory for all recruited candidates for international positions to attend (and for private recruitment agencies to send them to) prior to their departure. Relevant ministries should also build their capacities, train their personnel and seek out greater resources to carry out their respective responsibilities in general.

Subsequently, governments should take measures to identify and track all existing PEAs, ensure they are registered and authorized by the relevant government body, set up a system to ensure traceability of their activities and eventually map all placement and recruitment activities that take place both on the national and international levels. In order to avoid the falsification of recruiters' licenses (or authorization documents), each registered and licensed PEA should be provided an identity number and recorded into a national database. It would also be beneficial for governments to cooperate with national job boards and newspapers, as well as online job portals to ensure that all PEAs submitting job advertisements pass a test of authorization (providing their respective identity numbers) before their advertisements can be posted.

In addition, the government should adopt a more stringent penal code and enforcement mechanisms to ensure that licensed/authorized PEAs comply with rules and regulations specified in the labour code. Immediate sanctions should be implemented on PEAs found guilty of breaching the rules/regulations specified in the labour law, including the forced termination of the PEAs activities with the possibility of re-activating the PEA only if said rules and regulations are followed (for example, registration and licensing of PEA and strict compliance with national labour law regulations throughout the labour recruitment process). Newly founded PEAs and those that are reactivated after forced termination should face a probation period (suggested 6 months to a 1-year period) where regular monitoring from government officials occurs and the PEAs license can be immediately revoked in case of infraction. Other penalties for breaching the regulations found within national labour legislations should include fines in all cases of infractions at a set amount, significant enough to strongly discourage recruiters from committing such infractions; in other cases that contain more serious infractions (such as subjection of workers to instances of trafficking in persons), prison sentences should be a standard practice.

## Ratification of key international conventions.

Regarding the international and regional legal framework, more efforts should be made in reinforcing the application of international laws and conventions on the protection migrant workers, taking gender into consideration. It would also be advantageous for the government to ratify relevant ILO Conventions, specifically the Private Employment Agencies Convention

1997 (No.181), the Domestic Workers Convention (No.189), Migrant Workers Supplementary Provisions Convention 1975 (No.143) and the Migration for Employment revised Convention (No.197). Furthermore, the African Union (AU) has directly recommended that its Member States ratify and implement relevant ILO and UN Conventions on labour migration (IOM, 2019i).

### **Establishment of a credible and modernized public employment service.**

It would be beneficial for governments to establish a credible and modernized public employment service and ensure it is made available to candidates seeking both national and international positions. This service should be available online through a job portal service on which both jobseekers and employers can register. The body should also provide candidates with in-person services, such as job matching, training, apprenticeship, professional development and other relevant services. It should also recruit for positions at the international level. This should involve both a national labour market survey as well as an identification process of current and potential destinations abroad to be sought by domestic workers.

### **Increased support for migrant workers through consulates and missions abroad.**

It would be advantageous for governments to increase support, training and capacity-building to their consular missions, notably to the office of labour attaches. It would also be beneficial to ensure missions are adequately staffed and resourced in countries with large migrant and diaspora communities as well those where abuses of migrants have been recorded, such as in the Gulf region. In turn, consular affairs should ensure that all migrants and diaspora members register with their services upon arrival in the destination country. The offices of labour attaches should also establish a complaints mechanism for migrant workers. Lastly, governments should support the creation of safe houses or shelters for stranded migrant workers abroad.

### **Increased policy focus on promoting regular migration pathways.**

Instead of banning or criminalizing labour migration, it would be favourable for governments to refocus and prioritize their efforts on prevention and protection. Such responses would include creating, identifying and regulating legal, safe, transparent and ethical systems for both national and international labour recruitment as well as adequately preparing and training the required labour force to respond to the existing and growing demand. In addition, labour recruitment should be approached as a strategy to address unemployment and be presented this way in advocacy efforts. In addition, governments should negotiate Bilateral Labour Agreements with destination countries, based on agreed standards and international good practices for the protection of migrant workers. These should also be signed as a prerequisite for authorizing labour recruitment to be undertaken to those countries. Governments could establish model MOUs/BLAs to serve as templates for establishing future agreements and take concrete steps towards fully implementing MOUs/BLAs that have already been signed. Lastly, governments that have not yet established national migration and labour migration policies, should do so in order to promote regular migration pathways and improve national migration management; this last point is also a recommendation made by the African Union in order for its Member States to be able to effectively manage labour migration within the various countries (IOM, 2019i).

### **Acknowledging the link between informal labour recruitment and trafficking in persons.**

As informal and unethical labour recruitment and trafficking in persons and other forms of exploitation are tightly linked, government agencies in charge of trafficking in persons issues should be supported, given increased resources and capacity for the management of staff members and legal backing to prosecute traffickers while increasing the penalties for offenses. It would also be beneficial for efforts to reduce trafficking in persons to be further integrated and aligned with the responsibilities of the Ministry of Labour. It would also be beneficial for

government agencies to undertake research studies and enhance data collection activities on the links between informal labour recruitment and trafficking in persons present in their countries, which could then serve as a basis for further policy action. Thus, close collaboration between existing national counter-trafficking organisms and relevant government entities undertaking activities in labour and employment is crucial in order to ensure a joint approach in concretely addressing these links.

### **Sensitization and awareness-raising of the risks of informal labour recruitment.**

Sensitization on the risks posed by informal and unethical labour recruitment and its intrinsic links to other issues such as trafficking in persons and migrant smuggling should also be carried out by government authorities. It would be beneficial for the government, in coordination with other actors such as civil society groups, to implement campaigns to spread awareness of these links and adopt adequate measures to put end to the dissemination of misleading information concerning out-migration and in-migration. For instance, governments should ensure that jobseekers are informed that they should not pay fees for recruitment services as per international labour law. Social media must play a central role in efforts to spread awareness and dismantle informal agencies and sensitization efforts should be reoriented to make people who are being informally recruited the information sharers. Intelligence actions to scrutinize social media could also shed more light on details of informal agencies and methods on how to approach them.

### **Social security portability and rights.**

The government should ensure that private recruitment agencies provide complete information to individuals searching for job opportunities abroad and ensure that proposed contracts guarantee the proper exercise of all agreed social benefits, including wages. Improved social security relations should be made with destination countries through the establishment of bilateral agreements.

### **Increased regional cooperation.**

It would be beneficial for governments to cooperate jointly with ECOWAS to ensure that national legislation and policies related to migration, migrant rights and labour recruitment align with regional frameworks and conventions. Interministerial and cross-border coordination should be increased to harmonize laws and laws. Even if countries possess laws that comply with the ECOWAS strategy on migration, they must ensure that laws are also adequately enforced. In addition to supporting the implementation of the visa free circulation policy, governments should update and modernize this agreement for increased focus on promoting regular and longer-term labour migration in member States, rather than short-term employment and tourism. In addition, it would be beneficial to establish a multi-stakeholder social dialogue platform for governments, employers, private recruitment agencies and civil society organizations to encourage discussion and exchange on issues of labour recruitment and migrant worker protection in the region. Subsequently, awareness should also be spread on the regional level with regards to the exact procedures for residency/work within the ECOWAS subregion for ECOWAS citizens as specified within the free circulation policy.<sup>14</sup>

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<sup>14</sup> "A citizen of the Community visiting any Member State for a period not exceeding ninety (90) days shall enter the territory of that Member State through the official entry point free of visa requirements. Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if after such entry that citizen has cause to stay for more than ninety (90) days."

### **Increased cooperation with the Private Sector and Civil Society Actors.**

Governments should increase their cooperation with other national stakeholders, namely private recruitment agencies, national PEA and employer associations, as well as trade unions, local NGOs and other civil society actors. Cooperation with the PEAs could include establishing a formal partnership between the Ministry of Labour (or other relevant government body), the national associations for PEAs and employers, as was done in the case of Nigeria. The purpose of the partnership would be to foster dialogue, encourage exchange on pertinent issues related to employment, labour and recruitment on national and international levels. Furthermore, governments could involve CSO's in pertinent working groups, such as those focused on labour migration, as well as include them in the development of national migration and labour migration policies.

### **Private Recruitment Agencies and the Private Sector**

#### **Ensure knowledge of and adherence to national legislation.**

It would be highly beneficial for private recruitment agencies to inform themselves of current labour laws and legislation related to labour recruitment and labour migration in their country. Simultaneously, agencies should ensure their internal systems and codes of conduct are compliant with relevant national legislation. Notably, agencies should obtain and maintain an up-to-date operational license (in locations where such licensing exists).

#### **Ensure workers placed abroad undergo systematic pre-departure orientation.**

In order to familiarize recruited jobseekers with their new employment environments, including exposure to cultural norms, travel procedures, the obligations of both the worker and the employer and potential risks while abroad (such as exploitation), pre-departure orientations should be established and required by all jobseekers' to attend prior to their departure abroad. These sessions should also include practicalities such as how to contact agencies once abroad in case any employment issues should arise.

#### **Establish an active monitoring system of workers following placement with employers.**

In order to ensure that recruited workers and employers are simultaneously fulfilling their outlined obligations, agencies should establish active, regular monitoring systems, both for national and international placements. Such a system would also contribute to the reduction and mitigation of risks associated with trafficking in persons by obtaining regular input from employees about their working conditions. Incorporated within this system should be adequate grievance mechanisms for workers where they can discretely and securely communicate about their situation with the recruitment agency (for example: private WhatsApp groups, private Facebook groups, a hotline).

#### **Enhance jobseekers' capacities through training programmes.**

During the labour recruitment process, agencies should seek to enhance jobseekers' professional capacities in order to better prepare them for the current job market. This training should be undertaken after matching the jobseekers' professional interests with the current market demand and complementing these two components with the appropriate training. If the agency does not have the resources/capacity to implement training programmes, an alternative could be to produce a suggested training curriculum to be implemented by employers who have recruited employees through the agency. If this were to be established, it could also require regular monitoring by the agency to ensure that the recruited employees have indeed received the agreed upon training.

## Ensure enhanced due-diligence and cooperation with employers.

It would be beneficial for PEAs to establish a comprehensive due diligence process for employers, to ensure they abide by ethical, transparent labour recruitment standards that protect and promote the rights of workers. In their partnership agreements, both parties should put forth a specific process for treating grievances and various issues that could arise on the part of both workers and employers. Agencies should also sensitize employers on ethical labour recruitment practices and ensure that they understand their responsibilities in regard to promoting fair employment and protecting workers' rights if they choose to enter into a partnership with the agency.

## Form a national association/trade union of PEAs.

As in the case of Ghana and Nigeria, it would be highly beneficial for PEAs to organize a membership-based umbrella association or trade union on the national level. As with the case of HUCAPAN, entry into the national association should require the agency apply for membership and meet certain criteria, such as being registered/licensed by the government. Becoming a member of the association would also have certain benefits, such as allowing member PEAs leniency on renewing licenses (in the case of HUCAPAN, members must renew their licensed every 3 years instead of annually). Membership in the national association would also enhance the status of the PEA, while acting as a sort of due diligence tool for employers. As with the case of HUCAPAN, when recruitment agencies seek to work with clients in Nigeria, they are considered based on their status as a government authorized entity as well as a trustworthy partner based on their membership in HUCAPAN. As such, employers are able to choose PEAs to work with that match certain standards as well as being committed to transparent and ethical labour recruitment practices.

Forming this national association would simultaneously allow PEAs to join forces in the country, provide a platform for discussion on pertinent issues and challenges in the local and international labour recruitment industry and allow for member PEAs to be able then communicate these with the relevant government authority (Ministry of Labour). The organization could also provide PEAs with important information, such as on how to become registered with the government, navigate expansion of labour recruitment activities into the international sphere, integrate ethical labour recruitment practices into models of operation and navigate the local and international labour markets.

## Forming a regional body to bring together national associations of PEAs.

As a second step to the preceding recommendation, it would be advantageous for national associations of PEAs in the region to join together to create a regional body. The objectives of creating this body would be to regroup the interests of PEAs in the region, facilitate labour recruitment between countries in the region, share challenges and experiences of working in their own countries.

## Non-State Actors

### Expand efforts to raise awareness about workers' rights in-country and abroad.

Non-State actors, including CSO's and trade unions should take an active, regular role in raise awareness and contributing towards the strengthening of mechanisms for the protection of workers' rights nationally and internationally. These efforts could include lobbying (such as for the ratifying of ILO conventions) and awareness actions to inform workers themselves of their rights (in the form of in-person events and across social media platforms.).

### Increased role of trade unions in protecting and promoting the rights of migrant workers.

Trade unions should implement measures to protect, integrate and organize migrant workers within their unions on the national level. They should defend the rights of migrant workers by lobbying the government for fairer and more inclusive legislation related to the rights of migrants. In addition, trade unions should play a large role in organizing protests and large-scale events to spread awareness and advocate against injustices faced by migrant communities in their countries as well as of nationals who have emigrated to work abroad. In addition, national trade union confederations could contribute to identifying issues that migrant workers face in the country through surveys and engagement with those communities via their trade union members. Lastly, trade unions have the power to negotiate with employers for fairer labour recruitment practices and to demand the respect and protection of the rights of migrant workers.

### Increased collaboration with government officials in relevant ministries on the national level.

Due to their advantageous role of working directly with local communities, civil society organizations should collaborate with government agencies in conducting research activities or implementing awareness-raising campaigns. This will allow for a more thorough contact with local populations, thus allowing for an enhanced data collection as well as transfer of information to populations regarding issues related to labour recruitment.

### Participation in multi stakeholder dialogues on relevant issues.

In addition, it would be beneficial to establish a multi-stakeholder social dialogue platform for governments, employers, private recruitment agencies and civil society organizations to encourage discussion and exchange on issues of labour recruitment and migrant worker protection in the region.

### Avenues for future research and projects

Considering the lack of knowledge and research on labour recruitment modalities in West Africa, it is crucial that similar studies are carried out in other countries in the region; a full study carried out in the remaining ECOWAS countries would be ideal in order to be able to provide a complete regional perspective on ethical recruitment for West Africa. In addition to exploring and scrutinizing the areas addressed in the report, future studies of this nature could benefit from conducting more stakeholder interviews with private recruitment agencies themselves as well as civil society organizations involved in migrant rights.

Future research could also focus on the links between informal recruitment and instances of trafficking in persons, specifically along the West Africa – Gulf Cooperation Council countries. This could involve interviewing stakeholders within the GCC region (local authorities, private recruitment agencies, civil society organizations and so forth) and would allow for a better understanding of the modes of operation of informal recruiters and traffickers along this corridor, of potentially how many West African migrants are subjected to trafficking in persons and migrant smuggling along this corridor as well as current efforts that may exist within the GCC to better identify these instances and protect migrant workers.

In addition to further research, a project could be implemented within the framework of the International Recruitment Integrity System (IRIS). Firstly, this project could facilitate the rollout of the IRIS capacity-building programme and certification scheme for recruiters. Recruiters attending the workshops and regional conference in Abidjan and Abuja could be solicited for their interest and commitment to becoming IRIS certified. Subsequently, a number of PEAs



could be chosen as primary participants in the IRIS rollout and commit to undertaking the capacity-building and certification process. This in turn would increase awareness of the IRIS certification scheme and build its credibility in the region, for potential future use for governments and businesses alike. In addition, results of this research could build a foundation for a project on building an ethical labour recruitment framework within a specific corridor, such as the West Africa – GCC corridor, depending on trends uncovered in the preliminary research on existing and emerging corridors for labour migration originating from West Africa. Similar to the IRIS pilot project currently being implemented between the Philippines and Canada, the project would strive to develop a framework to promote ethical labour recruitment along the corridor by working directly with all relevant stakeholders on both sides in order to create and sustain a demand for ethical labour recruitment services. Furthermore, the development of a monitoring framework for recruitment agencies could be complimentary to and enhance this initiative.



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- Interview with Leander Kadilinge, Centre for Migration Studies University of Ghana, November 2018.
- Interview with Euguene Korteley, Chief Labour Officer, Department of Labour of Ghana, November 2018.
- Interview with Joseph Teye, Centre for Migration Studies University of Ghana, November 2018.

## Nigeria

- Interview with Solomon Adebosin, Human Capital Providers Association of Nigeria, 24 July 2019.
- Interview with Adenike Ajala, Nigeria Employers' Consultative Association, 2 August 2019.
- Interview with James Eustache, Nigeria Labour Congress, 22 July 2019.
- Interview with Titilayo Kolade, Ministry of Foreign Affairs, 23 July 2019.
- Interview with Godwin Morka, National Agency for the Prohibition of Human Trafficking in Persons (NAPTIP), July 24, 2019.
- Interview with Dr. Sunday Onazi, Federal Ministry of Labour and Employment, 19 July 2019.

## Senegal

- Interview with Farma Ba, Association des Migrants de Retour d'Arabie Saoudite, October 2018.
- Interview with Abdoul Karim Cisse, Direction Générale des Sénégalais de l'Extérieur (DGASE), November 2018.
- Interview with Ibrahima Diallo, Chief Labour Officer, Department of Labour of Senegal, October 2018.
- Interview with Aissata Ka, International Organization for Migration Office for West and Central Africa, October 2018.
- Interview with Mademba Kamara, Confédération Nationale de Travailleurs au Sénégal (CNTS-FS), October 2018.
- Interview with Badara Ndiaye, Diaspora Développement Education Migration (DIADEM), December, 2018.
- Interview with Mody Ndiaye, Cellule Nationale de Lutte contre la Traite (CNLCT) Senegal, October 2018.
- Interview with Sofia Amaral de Oliveira, International Labour Organization (Dakar), October 2018.
- Interview with Papa Sene, Union Démocratique des Travailleurs du Sénégal (UNDTS), October 2018.
- Interview with Agnes Bertrand, International Catholic Migration Commission, October 2018.







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