

Linkages between Trafficking, Smuggling, Labour and Migration Policy Regimes

Socioeconomic Implications
for Women Migrant Workers



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– Jenna L. Hennebry, Hari KC and Rosemary Kimani-Dupius



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Abbreviations and acronyms

AVRR	assisted voluntary return and reintegration
BLA	bilateral labour agreement
CSO	civil society organization
CEN-SAD	Community of Sahel–Saharan States
COMESA	Common Market for Eastern and Southern Africa
CNLTP	National Unit to Combat Trafficking in Persons (Senegal)
DESA	United Nations Department of Economic and Social Affairs
ECOWAS	Economic Community of West African States
GBV	gender-based violence
HCM	High Council for Migration
ICMPD	International Centre for Migration Policy Development
IDP	internally displaced person
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
INLTP	Instance nationale de lutte contre la traite des personnes
IPM	institutions de prévoyance maladie
ISSP	IGAD Security Sector Program
KII	key informant interview
MMC	Mixed Migration Centre
MPFA	Migration Policy Framework for Africa
NCCHT	National Committee to Combat Human Trafficking (Sudan)
NCM	National Coordinating Mechanism

Abbreviations and acronyms

NGO	non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
PEA	private employment agency
REC	Regional Economic Community
RMMS	Regional Mixed Migration Secretariat
SDLTED-J	Sub-Directorate in the Fight against Trafficking and Child Labor
SGBV	sexual and gender-based violence
SOP	standard operating procedure
SSWA	Secretariat of Sudanese Working Abroad
SDG	Sustainable Development Goal
SOGIESC	sexual orientation, gender identity, gender expression and sex characteristics
TIP Report	Trafficking in Persons Report (United States)
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
USD	United States dollar
USDOL	United States Department of Labor
WCA	West and Central Africa
VAW	violence against women
VOT	victim of trafficking

Executive summary

This report provides a situational analysis of women migrant workers in the countries of study (Côte d'Ivoire, Egypt, Morocco, Senegal, the Sudan and Tunisia) and a legal and policy analysis of legal frameworks pertaining to migration, anti-trafficking, anti-smuggling and labour laws/regulations in these countries from a gender equality and women's rights perspective. The research explores how gaps and inconsistencies between legal and policy instruments, independently and together, contribute to these phenomena, including the lack of socioeconomic integration. Significant gender discrimination and inequality, as well as gaps and incoherence within and across policy domains and legal frameworks, pertaining to migration, employment, trafficking and smuggling, exist at national, bilateral and regional levels. This means that many women migrant workers fall through the cracks and face heightened insecurity, human and labour rights violations.

The integrative approach taken by this research looks at the protection framework as a whole – to see the layered myriad of legal and policy frameworks, and the institutions and actors that implement them as part of an intertwined national and international system of protection. Specifically, the analysis of the international legal and policy frameworks, as well as the national case studies and corridors pointed to key gaps and cracks in governance, recognizing gendered causes and outcomes, that heighten situations of vulnerability for women migrant workers across borders. Overall, the analysis informed recommendations for legal reforms and implementation and provided recommendations aimed at addressing protection gaps at the international level. The work aims to meaningfully inform debates and governance at national and international levels, with the ultimate result of the work contributing to fostering change that enhances the protection of the rights of women migrant workers, combats gender discrimination and fosters gender equality, and supports the integration and economic empowerment of women migrant workers.

Introduction and methodological approach

Migration provides important employment opportunities for a significant portion of the world's population. There are 272 million international migrants globally; 52 per cent are male, while 48 per cent are female, that is, roughly 130,560,000 (IOM, 2019a). Though there is no exact definition of migration in international law, IOM defines it as the “movement of persons away from their place of usual residence, either across an international border or within a State” (IOM, 2019b). While migrant women have a higher labour force participation rate (67%) than non-migrant women (50.8%) (ILO, 2015), access to skills and migration pathways are often limited for women as they may lack the credentials or capital necessary to meet application requirements. The lack of equal access to skills and pathways stems from a range of factors across countries of origin and destination, including gender-based discrimination and inequality, and gaps or gender blindness in policies in countries of origin and destination. Globally, an estimated 65 per cent of the VOTs are women (46%) and girls (19%) and mostly for the purposes of forced labour and commercial sexual exploitation (UNODC, 2020). The European Parliament (2016) data supports these findings, indicating that 95 per cent of victims of sexual exploitation and trafficking are women and girls, while 70 per cent of victims of forced labour are men and boys.

While international and national laws provide the foundation for protection regimes and migration policy, the complex factors that create conditions of vulnerability for women migrant workers in the region can thwart implementation of protection provisions. Further, international legal frameworks do not always cleanly align with the lived experiences of women migrant workers. As defined by the Protocol against the Smuggling of Migrants by Land, Sea and Air (also referred to as the Smuggling Protocol), smuggling involves “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (Article 3) (United Nations, 2000a). Key to the definition, the smuggling of migrants involves an act of illegally facilitating the movement of people across an international border for profit. In contrast, “trafficking in persons” as defined by the Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children (also referred to as the Trafficking Protocol and the Palermo Protocol), refers to “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” (Article 3) (United Nations, 2000b). Trafficking thus typically includes the recruitment, movement or transportation under false pretenses, either domestically or internationally, resorting to coercion or control involving the use of or threat of force, with the aim of exploitation. Yet despite this clear differentiation articulated through two parallel international legal instruments, these two phenomena, in reality, overlap and are intricately interlinked, making the distinction often amorphous, blurred or co-constitutive. Women who are smuggled or trafficked may, at different points of time, be considered by legal, normative and political systems, as falling within both definitions – putting them in legal limbo without sufficient protections for their human rights or access to social protection and health services. In the case of many women migrant workers, the end result is still the same, in that those who have migrated through irregular pathways become concentrated in precarious sectors where they are exposed to heightened health risks and labour exploitation in countries of destination, without access to legal, health and social systems.

Migration, labour, trafficking and smuggling are clearly interlinked phenomena that necessitate a commensurate policy and institutional response that recognizes this complexity. Further, given the dominant presence of women migrant workers globally and particularly the disproportionately large numbers of trafficked and smuggled women,¹ there is a need for frameworks to be responsive to the gendered realities of both documented and undocumented women migrant workers, who have migrated through both regular and irregular pathways. Deficits in each of these legal systems and the lack of policy, legal and programmatic coherence between these agendas can contribute to irregular migration and the trafficking, smuggling and exploitation of migrant women, particularly those who are poor and lower skilled. Neglecting these gendered realities perpetuates a gender-blind approach that continues to ignore and may exacerbate risks and exposure to vulnerable situations for migrant women and girls.

To address these deficits, and their consequent negative impacts on women’s human and labour rights throughout migration, requires breaking out of policy silos to identify the unintended negative consequences of policies, and address the legal and policy gaps across migration corridors. To do so requires review, reform and implementation of policies/laws across legal and policy domains pertaining to migration, labour, trafficking and smuggling, grounded in a gender equality perspective. This report summarizes findings from a multi-country research initiative aimed at identifying and addressing the incoherencies and gaps across these policy and legal

¹ UNODC data consistently shows that around 75 per cent of detected victims of human trafficking are women and girls (UNODC, 2020). Also, see Hennebray et al., 2017.

domains, with a focus on Côte d'Ivoire, Senegal (West Africa) and the Sudan (East Africa) to the destination countries of Egypt, Morocco and Tunisia (North Africa). The goal of this research is to fill knowledge gaps concerning the experiences of women migrant workers in the region, and inform structural level changes that can counter the factors that lead to human and labour rights violations for women migrant workers, and instead create opportunities for their socioeconomic empowerment.

The report begins with a discussion of the primary objectives and scope of the project, followed by a description of the methodological and analytical approach, a description of data collection and analysis procedures, as well as limitations of the research. Background data is then summarized in order to provide a brief situational analysis of women's labour migration in the corridors of study. In the subsequent section, the core legal and policy analysis is provided, which is organized around key thematic areas and informed by KIs in the countries of study. Much additional information is also provided in a series of appendices that supplement the report. The final section of the report identifies key issues and opportunities for enhancing women migrants' rights protection in the region.

1.1. Objectives and scope

The main objective of this research is to examine relevant policy and legal instruments and identify the gaps and fissures that predicate human and labour rights violations among women migrant workers, and the trafficking and smuggling of women in the aforementioned migration corridors. Across four policy domains – labour, migration, trafficking and smuggling – the research aims to identify the factors that heighten vulnerabilities for women migrant workers and the challenges that stand in the way to protecting their labour and human rights. Specifically, the main aim is to pinpoint the gendered sites within legal and policy frameworks that produce or heighten vulnerabilities, as well as identify practices and policies that mitigate them so as to support women migrant workers' socioeconomic empowerment and integration across the above-mentioned migration corridors. The research findings are expected to inform and enhance the understanding and action for the socioeconomic empowerment and integration of both documented and undocumented women migrant workers, who have migrated through regular or irregular pathways, as well as those who have been trafficked and/or smuggled from Côte d'Ivoire, Senegal and the Sudan to the destination countries of Egypt, Morocco and Tunisia. Overall, the report aims to support the implementation of international gender equality, human and migrants' rights instruments, especially the following: (a) Convention on the Elimination of All Forms of Discrimination Against Women, 1979; (b) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (United Nations, 1990); Trafficking Protocol and Smuggling of Migrants Protocol, 2000, supplementing the United Nations Convention against Transnational Organized Crime, in support of achieving the SDGs and consistent with the Global Compact on Safe, Orderly and Regular Migration (United Nations, 2018).

The specific research objectives for this report are to:

- (a) Provide a brief situational analysis of women's labour migration, trafficking and smuggling in the regions under study;
- (b) Review the migration, anti-trafficking, smuggling and labour laws and related regulations and key regional policy frameworks from a gender equality and women's rights perspective in destination (Egypt, Morocco and Tunisia) and origin countries (Côte d'Ivoire, Senegal and the Sudan);
- (c) Identify the legislative gaps, challenges and other obstacles existing across migration, anti-trafficking, anti-smuggling and labour laws and related regulations and policies from a gender equality and human rights perspective, and explore the ways in which the contradictions or lack of policy coherence may give impetus to the increase in trafficking and smuggling in women migrant workers, resulting in heightened exposure to rights violations or situations of vulnerability for both documented and undocumented women migrant workers;
- (d) Provide recommendations to inform legislative reforms and programmatic action in enhancing the socioeconomic empowerment and integration of both documented and undocumented women migrant workers, to strengthen access to pathway and rights, and to better streamline coherence and the linkages across the four aforementioned legislative and policy regimes and institutions in the countries in focus.

The report is based primarily on a legal and policy analysis of national-level policies pertaining to labour, migration, trafficking and smuggling, which has been informed by secondary data from national and international organizations, as well as consolidated data collected and analysed by national researchers in the selected countries. In addition, a policy analysis of gaps with respect to international human rights frameworks, as well as regional policies such as the African Union framework on migration, Ouagadougou Action Plan to Combat Trafficking in Human Beings, and the African Union 2021 policy on preventing TIP in Africa has been carried out. Laws and related policies and regulations pertaining to migration, trafficking, smuggling and labour in the selected countries have been analysed from a gender equality and human rights analytical framework and with indicators drawn from key international instruments.

1.2. Methodological approach

Despite widespread recognition of the feminization of migration² (Piper, 2013), migration governance tends to be gender-blind – ignoring the gendered realities and risks for the roughly 130,560,000 women migrants worldwide (IOM, 2019a), and leaving gender inequality and women's rights unaddressed. Further, despite widespread global ratification of international legal and normative frameworks related to human rights, and in particular gender equality, such as the

² *Feminization of migration* refers to the changing nature of women's migration, reflecting the fact that more women migrate independently rather than as members of a household, and are actively involved in employment (IOM, 2019b:73).

Convention on the Elimination of All Forms of Discrimination against Women, many countries have not aligned their migration governance (and its constitutive laws and policies) with their commitments to gender equality. These normative frameworks can be used as valuable starting points to evaluate policies and assess compliance – at least, on paper. However, it is necessary to consider the local context and conditions in examining problems of coherence and compliance with international “norms” (Hannerz, 2010).

This research adopts a broad feminist political economy approach (Anderson, 2013; Stasiulis and Bakan, 2003; Gammage, 2010; Safri and Graham, 2010) that emphasizes the impact of policies and governance on the lives of women migrant workers. This shifts the focus to the gendered and systemic nature of labour migration, which is deeply intertwined with economic factors (such as labour market demand/desires, access to employment, remittance sending and care economy), as well as political factors (migration policies are the product of political negotiations between States and are embedded in political instruments). Moreover, regardless of the sector in which women formally work, labour migration is the juncture where gender, the care economy and women’s economic empowerment intersect.

Informed by research collaborators’ innovational contexts, the research design aims to uncover the ways in which policy and legal frameworks function, both on paper and in practice, to better understand how the policy and governance landscape functions to protect labour, human and sociocultural rights of women migrant workers, empowers women, or heightens risks for women on the move. By examining the policy and legal frameworks that impact women migrant worker trajectories and access to rights across borders throughout all stages of migration, the research examines the governance contexts within the identified migration corridors. To this end, a multi-sited and multileveled (national and international levels) multi-case study research design is employed that involves KIs and policy analysis from six country case studies to meaningfully integrate contextual information from across the identified corridors.

The research focuses on reviewing and analysing migration, anti-trafficking, anti-smuggling and labour laws/regulations from a gender equality and women’s rights perspective, exploring how these frameworks and their implementation contribute to or mitigate gender inequality, exposure to risks of exploitation or human and labour rights violation, or barriers to socioeconomic integration and empowerment for women migrant workers. The review takes into consideration key regional policy frameworks and bilateral agreements where relevant. In addition, the research recognizes the socioeconomic and political impacts of the COVID-19 pandemic on both documented and undocumented trafficked, smuggled and migrant women.

1.3. Gender equality and rights-based analytical framework

This research adopts a gender equality analytical framework, which places the human and labour rights of both documented and undocumented women migrant workers at the centre of analysis. Such a framework is anchored to the Convention on the Elimination of All Forms of Discrimination Against Women, which is widely accepted as a document that upholds the principles of non-discrimination and equality. The Convention outlines that “States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” (Article 3) (United Nations, 1979). Further, the Convention asserts States’ obligations to implement such measures, affirming that, “States Parties shall take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women” (Article 6) (ibid.).

In addition, this analytical framework is gender responsive in that it is rights based and considers the specific needs and experiences of women migrants, including the trafficked and smuggled women and girls, as well as those who are at risk of being trafficked and smuggled. This approach focuses on evaluating the coordinated actions at all levels and across countries of origin, transit and destination (D’Cunha, 2002), and places women’s human rights at the centre of analyses across all four legal and policy regimes: migration, trafficking, smuggling and labour. The experiences of women and girl victims of human trafficking are rooted in their unequal social locations (ibid.; Heyzer, 2002). Indeed, women and girls are more likely to be in pre-existing precarious employment and situations of income insecurity, and face barriers to accessing the human capital and documentation necessary to be eligible for visa requirements – thus increasing their risks of exploitation and abuse (including trafficking). Owing to pervasive and persistent gender inequality, the trafficked and smuggled women and girls become further disadvantaged and marginalized by a general lack of information on or awareness and recognition of their human rights and by the stigmatization often associated with human trafficking (United Nations, 2018). The gender-responsive and rights-based approach thus focuses on the roots for the prevention of both trafficking and smuggling, as well as in relation to migration and internal labour systems.

At the global level, several legal and normative instruments across all the four areas (migration, trafficking, smuggling and labour) provide protection of the labour and human rights of women migrant workers. These instruments and frameworks delineate the responsibilities and powers of States when it comes to managing migration and mobilities of people across borders while protecting and respecting their human rights. For example, the International Convention on the Rights of Migrant Workers and Their Families guarantees the basic human rights for migrant

workers and members of their families, whether documented or undocumented.³ The rights of women migrants are featured explicitly in a number of international legal frameworks, such as those pertaining to trafficking and smuggling: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, 2000, and the Protocol Against the Smuggling of Migrants by Land, Sea and Air. The United Nations Convention Against Transnational Organized Crime (UNODC, 2004) and the two protocols emphasize the need to respect and protect victims' human rights. As Article 5 of the United Nations Convention Against Transnational Organized Crime states, the signatory States are obliged to take legislative and other measures to criminalize conduct amounting to TIP. Other articles in the Trafficking Protocol, such as Article 10 (dealing with information-sharing and training for law enforcement and immigration authorities), Article 11 (dealing with measures to increase border security), and Articles 12 and 13 (dealing with security of travel documents) again underscore the core focus of the United Nations Convention Against Transnational Organized Crime and the Trafficking Protocol on global security and transnational criminal law enforcement. The Trafficking Protocol has been ratified by 117 out of 178 countries (United Nations, 2000c). The ratification of United Nations instruments on migration and migrants remains, including ILO Conventions uneven. As Table 1 shows, for the countries under study, the Trafficking Protocol has been ratified by all six countries, although some have done so with reservations and declarations. As for the Protocol against the Smuggling of Migrants by Land, Sea and Air, Senegal and Morocco have not ratified it. Also, Côte d'Ivoire, the Sudan and Tunisia have not signed the International Convention on the Protection of the Rights of All Migrant Workers and Their Families.

³ Article 10 prohibits torture or cruel, inhuman or degrading treatment or punishment; Article 11 prohibits slavery or servitude and forced or compulsory labour; Article 12 provides for freedom of thought, religion and conscience; Article 13 provides for the right of expression; Article 14 prohibits arbitrary or unlawful interference with privacy or attacks on honour and reputation; Article 15 prohibits arbitrary denial of property; Article 16 entitles migrants to effective protection by the State against violence, physical injury, threats, and intimidation, whether by public officials or by private individuals, groups or institutions; Articles 17 to 21 pertain to the rights of migrants who have been detained by State authorities for immigration and criminal offences; Article 22 prohibits collective expulsion and sets out the rights of migrants in expulsion proceedings; Article 23 provides the right of all migrants to seek the protection and assistance of the consular or diplomatic officials of their countries of origin; Article 25 entitles all migrant workers to enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work; Article 26 pertains to the right to join trade unions; Article 27, regarding social security, recognizes that States may limit benefits to migrant workers but encourages States to examine the possibility of reimbursing interested persons the number of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances; Article 28 sets out the right of migrants and their families to health care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health specifying that emergency medical care should not be refused to those in irregular status; Article 29 discusses the rights of the children of migrants to a name, birth registration, a nationality; Article 30 provides a right to basic education, which cannot be denied because of the child's or his or her parents' irregular status; and Article 31 protects the cultural identity of migrants and members of their family.

Table 1. Ratification of key relevant global legal instruments

Countries	Instruments				
	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	Convention on the Elimination of All Forms of Discrimination against Women	Protocol against the Smuggling of Migrants by Land, Sea and Air	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	ILO Conventions 189, 190, 201 and 206, Domestic Workers Convention of 2011; Violence and Harassment Convention of 2019
Sudan	2 December 2014	30 April 2015	9 October 2018	Not ratified	29 April 2012
Morocco	25 April 2011	21 June 1993	Not ratified	21 June 1993	13 June 1956
Tunisia	14 July 2003	20 September 1985	14 July 2003	Not ratified	12 June 1956
Egypt	5 March 2004	18 September 1981	1 March 2005	19 February 1993	19 June 1936
Côte d'Ivoire	25 October 2012	18 December 1995	8 June 2017	Not ratified	21 November 1960
Senegal	27 October 2003	5 February 1985	Not ratified	9 June 1999	4 November 1960

	Ratified
	Ratified with reservations
	Ratified with declarations and observations
	Ratified with declarations
	Not ratified

Source: Authors' own elaboration based on 2023 data from the United Nations Treaty Collection.

The Convention on the Elimination of All Forms of Discrimination Against Women, which is the global normative and legal framework relating to gender equality and discrimination, has been ratified by all six countries, although with reservations and declarations in the case of Egypt, Morocco and Tunisia. In relation to migration, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, and the labour-related conventions (such as the Domestic Workers Convention of 2011 (ILO Convention no. 189) and Violence and Harassment Convention of 2019 (ILO Convention no. 190)) have been ratified by all the six countries, although Egypt and Morocco have done so with reservation.

In addition to the legal instruments, the 2030 Agenda for Sustainable Development Goals and the Global Compact for Safe, Orderly and Regular Migration provide explicit provisions to protect the labour and human rights of both documented and undocumented women migrant workers. The SDGs reaffirm the importance of achieving gender equality and empowering women, emphasizing that effective gender equality is needed if all 17 Goals are to be achieved. SDG 5

states that all forms of discrimination against women and girls must be eliminated by 2030, which means assessing migration policies and governance for their impact on whether they promote gender equality and non-discrimination based on sex (consistent with Indicator 5.1.1). Similarly, the Global Compact for Migration, which is the first inter-governmentally negotiated agreement pertaining to all dimensions of migration, embraces gender-responsiveness as one of its guiding principles and mentions gender for over 20 times throughout its 23 objectives (Hennebry and Petrozziello, 2019). It is for this reason that gender-responsiveness is one of the cross-cutting and interdependent guiding principles of the Global Compact for Migration:

Gender-responsive: The Global Compact ensures that the human rights of women, men, girls and boys are respected at all stages of migration, their specific needs are properly understood and addressed and they are empowered as agents of change. It mainstreams a gender perspective, promotes gender equality and the empowerment of all women and girls, recognizing their independence, agency and leadership in order to move away from addressing migrant women primarily through a lens of victimhood. (Article 15, United Nations, 2018)

In migration governance, the concept of gender-responsiveness means that gender shapes and impacts the experiences of migrants, and it is therefore essential to ensure that migration policies and programmes at all stages of migration and at all levels of migration governance respond to the gendered realities and experiences of all migrants and protect their rights. While gender impacts the migration experiences of both men and women, the consequences of migration for women are more likely to be deleterious to their physical and mental health, and migration in many cases leads to heightened economic insecurity and political disenfranchisement (Bastia and Piper, 2019). Gender has uneven consequences for migrants, with women and girls facing greater barriers to migration, risks of exploitation and harm along the way, and poor socioeconomic outcomes from migration. Gender-responsiveness thus entails ensuring that policies, laws, programmes and services related to migration should recognize and address the specific needs, and gendered challenges and vulnerabilities of all migrants, particularly those of women, girls and migrants with diverse SOGIESC. In formulating, monitoring and reviewing migration policies and programmes, the principle of gender equality should guide all interventions by both State and non-State actors. The ultimate goal of gender-responsive migration policy and governance is to counter gender inequality in both the experiences and outcomes of migration, and to ensure equality of access to migration, and the protection of women migrant workers' human and labour rights throughout migration. The Global Compact for Migration was reaffirmed through the Progress Declaration, which was negotiated at the International Migration Review Forum at the United Nations in New York in May 2022 and was then voted on in the General Assembly. The document functions to link together the range of international instruments for States and organizations as

they develop migration governance systems. As governments continue to commit to working together multilaterally on the implementation of the Global Compact for Migration as part of their efforts towards the 2030 Agenda, they will ground their actions in the foundations of key international agreements and frameworks (such as the Convention on the Elimination of All Forms of Discrimination against Women) on which these two global multilateral commitments have been built upon.

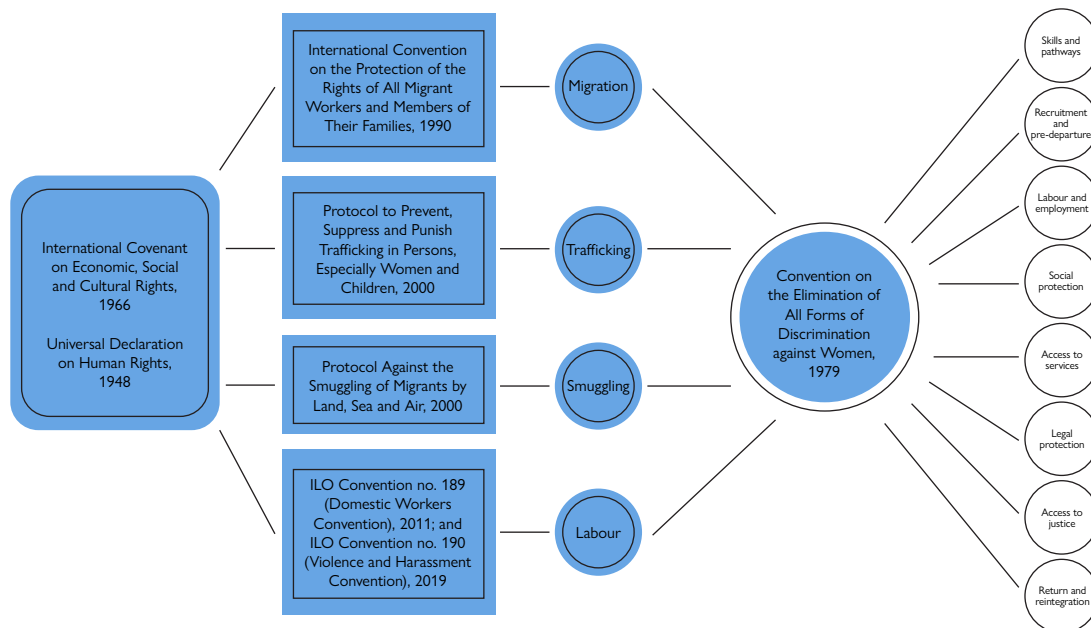
Methods and analysis

The project involved the following methods to gather data and conduct analysis across the six case study countries: (a) legal and policy analysis; (b) analysis of secondary data and information; and (c) semi-structured qualitative interviewing. Further elaboration is further provided.

2.1. Legal and policy analysis

For the legal and policy analysis, eight themes are derived from the key relevant global instruments (refer to [Appendix B](#) for the complete list). As Figure 1 illustrates, it is the Universal Declaration of Human Rights, 1948, and the International Covenant on Economic, Social and Cultural Rights, 1966, that provide the foundation upon which the international legal instruments of the domains of migration, trafficking, smuggling and labour have been operationalized.

Figure 1. Thematic indicators of the gender equality and rights-based framework



Source: Authors' own elaboration based on 2023 data from Gender + Migration Hub, n.d.

The indicators in each of the thematic areas were derived primarily from key international legal instruments, with a focus on the Convention on the Elimination of All Forms of Discrimination against Women, including relevant General Recommendations (no. 26, 19, 35 and 38).⁴ In particular, the indicators were developed drawing on General Recommendation no. 26 on women migrant workers and no. 38 on trafficking in women and girls in the context of global migration. As further demonstrated in Table 2, eight main thematic areas served as indicators of gender-responsiveness, with each divided into several sub-indicators.

Table 2. Themes and indicators of gender-responsiveness

1	Pathways	(a) Legal pathways for labour migration (b) BLAs (c) Standardized employment contracts
2	Recruitment and pre-departure	(a) Fair recruitment (b) Information
3	Labour and employment	(a) Access to employment/income (b) Collective bargaining (c) Payment/remittances (d) Workplace safety (e) Decent work/labour rights
4	Social protection	(a) Income security provisions (b) Maternity/parental benefits
5	Access to services	(a) Health care (b) Psychosocial services (c) Access to housing (d) Participation/consultation with women migrant workers (e) Access to education (f) Access to cultural/social services (g) Gender-specific services/policies (h) Gender-sensitive training (i) Privacy and confidentiality
6	Legal protection	(a) Legal protection of human and political rights (b) Protection from violence (c) Consular protection (d) Safety and protection from harm/violence (e) Political rights (f) Non-discrimination in protection of human rights (g) Protection of identity documents

⁴ The indicators were based on international legal and normative documents that include the following: (a) Convention on the Elimination of All Forms of Discrimination against Women and its General Recommendations: no. 19; 26; 35; no. 38 on trafficking in women and girls in the context of global migration; (b) UNODC and its protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and Protocol against the Smuggling of Migrants by Land, Sea and Air; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990; and (c) ILO Convention no. 189 (Domestic Workers Convention), 2011, and ILO Convention no. 190 (Violence and Harassment Convention), 2019.

Linkages between Trafficking, Smuggling, Labour and Migration Policy Regimes:
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7	Access to justice	(a) Legal representation (b) Fair trial, complaints, prosecution and compensation (c) Protection from revictimization (d) Privacy and confidentiality (e) Coordination and referral and national referral mechanism
8	Return, repatriation and reintegration	(a) Gender-responsiveness (b) Family reunification

Source: Authors' own elaboration based on 2023 data from Gender + Migration Hub, n.d.

The policy and legal analysis were carried out based on the eight themes and corresponding indicators using mainly the primary data. The analysis assessed compliance with international frameworks (that is, do the laws/policies comply with international law?), gender-responsiveness (that is, do the laws/policies respond to the gendered realities and needs of women specifically?); and coherence across relevant policy domains (that is, do the policy frameworks speak to each other, address gaps or produce risks/harm?). In addition, the analysis identified gaps, incoherence and contradictions within the said four policy and legal domains leading to the gendered vulnerabilities and challenges faced by women migrants, as well as practices and policies that may have supported their integration and socioeconomic empowerment. Further, the research identified governance policies and practices that heightened risk or conversely strengthened socioeconomic integration of women migrant workers and generated recommendations for governments and stakeholders to address challenges and protection gaps.

To do so, key policies and legal instruments existing at the national level were identified and analysed to assess compliance with international legal and policy frameworks. National policies and laws pertaining to the following legal/policy domains were analysed:

- Employment and labour-related policies/law (that is, laws related to recruitment, labour law, occupational health and safety, social protection, employment insurance, parental leave and others);
- Migration law and policy (laws related to border security and migration, permanent residency, work permits, bilateral labour migration agreements);
- Trafficking (specific anti-trafficking, recruitment regulation);
- Smuggling (anti-smuggling law or criminal law or policy pertaining to smuggling, recruitment);
- Gender equality and women's rights/laws (laws/policies related to gender equality such as equal pay, anti-discrimination, equal access to education, VAW, SGBV and others).

Indicators were further elaborated using the reports by the United Nations Special Rapporteur, which emphasized the identification of "structural features that should be detected at an early stage and on the understanding of vulnerability as shaped by discrimination and by the inability of a person to gain access to social protection and effective remedies" (United Nations, 2020).

In addition, the implementing institutions were mapped and processes were analysed across all the four legal and policy regimes. The analysis also assessed their coherence and identified gaps and opportunities to ensure migrant women's access and rights to education and skills attainment, as well as human, labour, economic, social, political and cultural rights. In addition, both strengths and limitations were identified as to what extent the system supported migrant women's empowerment and prevented trafficking and other forms of exploitation and harm. The legal and policy analysis evaluated the extent to which the legal and institutional systems across the migration corridors were gender-responsive, insofar as the extent to which they responded to the needs of both documented and undocumented women migrant workers and supported their anti-discrimination, integration and the socioeconomic empowerment, ensuring their rights to education and skills in origin countries so that they could equip themselves with the necessary qualifications accredited by both origin and destination countries in the first place. Further, coherence across legal and policy domains was assessed by examining the legislation (that is, looking for specific mention of other policies of legal frameworks, such as migration law clearly linking to labour law in a clause or passage of the text of the law), as well as the other official sources, secondary sources and KIs, and based on the institutional mapping and KIs carried out by national researchers. With reference to relevant international conventions or frameworks, the research identified the commensurability between each policy and law for each of the thematic areas of the policy analysis.

2.2. Primary data analysis

KIs with civil society, community-based organizations and NGOs working with trafficked women, relevant international organizations and government representatives were carried out in Côte d'Ivoire, Egypt, Senegal, the Sudan and Tunisia to assist in identifying key issues and governance gaps, as well as best practices in relation to gender-responsive approaches. Due to the pandemic restrictions, primary data was not collected in Morocco. The analysis of the data from KIs informed both the institutional mapping and the examination of the extent to which policies and laws were implemented in a gender-responsive and coherent way that support women migrant workers' socioeconomic empowerment and integration. Each of the researchers based in the country offices conducted between 10–15 semi-structured KIs per country. The KIs were roughly one hour in length, and given the COVID-19 pandemic, some were conducted via telephone or electronically using Zoom, WhatsApp or similar systems where possible. For the sake of consistency and comparability of data, the national researchers were provided with semi-structured interview guides and protocols (refer to [Appendix A](#) for the interview guide). However, the national researchers had the flexibility of developing, altering and/or adding questions commensurate with their specific national contexts to strengthen the validity of the work. The KIs aimed to ensure accurate interpretation and context-specific analysis of legal frameworks and provided insights from the perspective of key stakeholders, such as CSOs working with migrant women, to inform the identification of governance and service gaps, gendered causes and

outcomes, and factors that heighten situations of vulnerability for women migrant workers. In carrying out the KIs, attention was paid to ensure representation variability across these groups: civil society, community-based organizations and NGOs working with trafficked or smuggled women migrant workers, or those in irregular status/vulnerable situations, relevant international organizations and government representatives.

2.3. Secondary data analysis

Secondary data consisted of reports and information collected in all the six countries from national government agencies and statistical offices, reports and data published by CSOs, regional or international organizations relevant to the research, including entries, stocks of labour migrants by gender, data pertinent to trafficking in women, exploitation and violence of trafficked and/or smuggled women and girls. To complement the primary data collected from the five countries in focus, secondary data was analysed from all six countries. The secondary data were particularly valuable in the case of Morocco, where the project was unable to gather primary data, as previously noted. The analysis of the secondary data provided valuable information to enable an assessment of compliance with international legal frameworks, particularly with respect to implementation, gender-responsiveness and coherence across legal and policy frameworks. Further, the secondary data analysis (such as statistical data and existing reports and reviews) informed the situational analysis of women's labour migration, trafficking and smuggling of women migrant workers in the identified corridors/contexts.

2.4. Limitations of the data and ethical considerations

Given the multi-sited, multilevel and multi-method research design, the project involved a great deal of complexity that is also reflective of the interlinked realities of migration, labour, trafficking and smuggling. In addition, the fieldwork for this research extended across six countries, three languages, numerous core legal domains, six international legal frameworks and seven thematic areas. However, interviews were carried out in five of the six countries in focus: Morocco did not allow interviews to be conducted. Despite the multiple sites and levels of fieldwork amidst the pandemic, primary data were collected from five countries, as Morocco did not allow interviews in the field due to the pandemic lockdown. One of the challenges was that this research was conducted during the COVID-19 pandemic, which brought about its own set of hindrances. The realities of the COVID-19 context, although not the key research priority for this study, were also addressed where possible. Since the research is also a joint initiative between three United Nations agencies (UNODC, IOM and UN Women), with country offices in each of the countries identified, the project also involved the collaboration of national researchers in each country. As such, the range of stakeholders and partners is significant. These complexities slowed data collection and analysis and other administrative aspects of the project, such as variation in timing of onboarding of national researchers. Further, despite the innovative multi-country and corridor research focus, and the efforts to ensure consistency, reliability and validity across

the sites of research, some case studies produced more detailed data than others. To mitigate any impacts of this potential disparity, the project developed detailed and consistent guidance for national researchers and maintained frequent communication with this broad research and advisory team (see [Appendix C](#)). To further mitigate inconsistencies from the country teams rather than providing country-specific sections, the report aims to provide an integrative and comprehensive legal and policy analysis of countries of origin and destination, while highlighting specific country-level data as appropriate, and utilizing secondary data to address potential data gaps or provide further details.

This study was reviewed by representatives from the following: UNODC/Regional Office for Middle East and North Africa; IOM Regional Office for the Middle East and North Africa; and UN Women Regional Office for Arab States; and the research protocols were compliant with international guidelines on ethical research⁵ and aligned with guidance from the European Commission, as well as UN Women⁶ (refer to [Appendix C](#) for guidance note for national researchers, [Appendix D](#) for guidelines and ethical review protocols and [Appendix E](#) for informed consent letter templates).

⁵ See the [United Nations Ethics Office](#).

⁶ See the European Union's [Ethics in Social Science and Humanities](#) and UN Women's [Violence Against Women and Girls Data Collection during COVID-19](#).

Major corridors, countries and routes

3.1. Situational analysis of migration, smuggling and trafficking in the regions under study

The number of international migrants in Africa increased from 17.2 million in 2010 to an estimated 26.3 million in 2019, which translates into an average annual growth rate of 4.8 per cent (African Union, 2021). Agreements on the free movement of people and freedom of establishment within certain economic communities, as well as population growth and national policies on mobility, have contributed significantly to the increase in migration since 2010 (African Union, 2020). Migration within the continent of Africa is currently driven by trade and economic opportunity. The largest migration flows are in the WCA region between countries of the region, and there were limited migration flows between West and East Africa (African Development Bank, 2018). Also, migration flows from North Africa were decidedly transcontinental.

Data indicates that about 3 per cent of the WCA population is an international migrant (Bruni et al., 2017; RMMS, 2017) suggesting that the area is experiencing high population movements. Migration flows within the WCA region (intra-regional mobility) are significantly higher (80.09%) than outward migration flows toward Europe (19.37%) (MMC, 2020; RMMS, 2017), and less than 0.5 per cent reporting the Americas, Asia or Oceania (IOM, 2021a). As such, intra-regional migration is still the primary form of migration in the WCA region. The dominant intra-regional movement is north–south (from Sahel: Mali, Chad, Burkina Faso and the Niger; to coastal countries: Côte d’Ivoire, Ghana, Nigeria, Senegal and the Gambia). In terms of extra-regional migration movement, the flow is from WCA toward North Africa and Europe. The data supporting this migration phenomenon in the WCA region (referred to as trans-Saharan African livelihood migration strategy) contrasts the dominant European narrative and media focus on extracontinental migration as the major migration flow from Africa, a common bias plaguing migration data from the continent (Bruni et al., 2017; UNCTAD, 2018). Most African migrants stay and choose to stay in Africa.

Migration flows follow an intraregional or within-the-country trend. For example, as of 2019, Côte d'Ivoire hosts more than 2.5 million migrants, ranking first in the region, while 50 per cent of migrants in Senegal are constantly on the move within the country (IOM, 2021a; ILO, 2020; DESA, 2019). The large flows of mixed migration within the WCA region are driven primarily by the following: (a) employment seeking (62%), particularly youth intraregional migration patterns; (b) rejoining family (27%); (c) access to services (4%); (d) war and conflict (2%); and (e) other factors (4%) (Bruni et al., 2017; IOM, 2021a). Notably, increasing environmental disasters, such as floods, droughts, mudslides and soil erosion driven by climate change, are not only driving migration, but also aggravating other pre-existing migration drivers within the region (Bruni et al., 2017).

The WCA region has one of the most diverse ethnic groups in Africa who are transnationally connected. These present-day migration patterns and flows in the WCA region are complex, dynamic and deeply rooted in historical contexts where migration is not only a way of life, but also an important livelihood strategy. There are approximately 7.5 million migrants living in the WCA region with an estimated 3.2 million international migrants, of whom nearly 61 per cent are from countries within Africa (Migration Data Portal, n.d.; see also, DESA, 2020).

Such a significant increase in migration flows in the WCA region can be attributed more to “development and social transformation rather than by increased poverty or conflicts” (Bruni et al., 2017:26) and harsh climate conditions. Inter-religious and inter-ethnic violent conflict⁷ – although not a singular factor in increasing migration flows in the region – has shifted migration movement patterns. What this means is that violent conflict has blurred clear lines between destination, origin and transit countries, making it difficult to classify countries specifically either as migrant sending or migrant receiving. In reality, depending on the context, each of the six countries function as country of origin, transit and destination. Nonetheless, among the six countries focused on for this report, Egypt, Morocco and Tunisia have historically been and remain significant countries of destination, transit and origin, while Côte d'Ivoire, Senegal and the Sudan remain primarily countries of origin.

In Northern Africa, women migrants have much higher rates of labour force participation than non-migrant women (33% compared to 21.7%), whereas the opposite is true in sub-Saharan Africa (47.3% compared to 65% for non-migrant women) (ILO, 2018). Further, the large numbers of migrant women engaged in informal work, as well as unpaid care and domestic labour, may partly explain their underrepresentation in the labour force (ILO, 2016). In Africa, during the period from 2010 to 2019, women's labour participation was 45 per cent of the overall labour force (African Union, 2021). When it comes to women migrants, they represented 47 per cent of the total international migrants in Africa, which is similar to the global share of women migrants (48%) (UNCTAD, 2018), with primary motivations including economic and family reasons;

⁷ The violent conflict in the WCA region is marked by two axes of long-term and intense insecurity: (a) the Boko Haram insurgency in the Lake Chad Basin with north-eastern Nigeria as the epicentre with the conflict and its corresponding displacement radiating into Cameroon, Chad and the Niger); and (b) the Central Sahel crisis, which erupted in Mali in 2012, and has since spread into the Niger and Burkina Faso and all key countries of transit for migrants in the region (MMC, 2020).

political instability, conflict and violence situations; employment opportunities within and outside the continent. This indicates an increasing number of women migrating independently in order to work in other African countries (ibid.). However, the gender balance among migrant workers has improved slightly over the years: in 2010, women made up 37 per cent of migrant workers, but by 2019 this share had risen to 39 per cent (ibid.). This may point to an increasing number of women migrating independently in order to work in other African countries (ibid.).

Within the continent, the share of women migrants is the highest in Eastern Africa (50%), followed by Middle Africa and Western Africa (47% each), Southern Africa (44%) and Northern Africa (43%) (African Union, 2020). It is difficult to estimate the number of women migrant workers in West Africa for three key reasons: (a) overall, data on women migrant workers in the subregion is limited; (b) women migrants are predominantly employed in informal jobs/sectors; and (c) some of those women workers are undocumented, temporary workers or cross-border traders (UNODC, 2020).

In sub-Saharan Africa, over 60 per cent of all working women are concentrated in unpaid or poorly paid labour-intensive agriculture (ILO, 2016). Research shows that the intracontinental migration of low-skilled migrant workers between the WCA region and North Africa and North-East Africa region produces positive benefits for source and destination countries and for migrant families. Migration within and beyond the region is also a way for women to access and increase economic opportunity, while also allowing them to escape patriarchal structures in WCA (IOM, 2020a); in this way, access to migration pathways is a key ingredient towards achieving gender equality. Rising demand for care and domestic workers within the continent, as well as cross-border trade opportunities, is driving the growth of the intraregional migration of women. Further, women migrants' participation in the informal labour market is also rising as a survival strategy to increase scant family incomes (Awumbila et al., 2014).

There has been a long tradition of migration, smuggling and trafficking in Africa (Aniche and Moyo, 2019). Historically, the slave and trading wars propelled population displacements and forced migrations within the continent, and in particular the West and North of Africa. However, due to blocked or limited pathways, women migrants are more likely to resort to smugglers and become more prone to being trafficked. Because of such irregular means and routes of migration, they are subject to exploitation and abuse. Further, migration is a gendered experience, and this means that women migrants experience violence and discrimination at the intersections of gender, sex, migration status and nationality. Sexual exploitation and abuse are rife along the migration routes women take (MMC, 2018), and women migrant workers are four times more likely than men to witness and experience sexual abuse (MMC, 2020). For example, Bruni et al. indicate that nearly half the women and girls using the Central Mediterranean route have experienced "sexual abuse multiple times and in multiple places" (2017:38), causing physical and mental traumas. IOM (2017a) reports that between 2014 and 2017, Italy saw an increase of 600 per cent in the number of potential victims of sexual exploitation arriving by sea through this route, with most of the

victims being younger girls (particularly minors who have already experienced violence and abuse en route to Europe). Women migrant workers also face heightened risks of trafficking, not only within the WCA North Africa region, but also in Europe along long-established smuggling routes.

Smuggling further increases migrant workers' vulnerability to human trafficking, particularly for women migrant workers, since irregular migration increases risk of exploitation: kidnapping, ransom demands, extortions, violence, sexual abuse, forced labour, detention, harassment, physical abuse, robbery and others (MMC, 2020). As Bruni et al. emphasize, while trafficking and smuggling are distinguishable, they both involve "recruiting migrants, obtaining (fake) documents, organizing vehicles and drivers, transporting individuals, and bribing officials" (2017:9). Smugglers act in various roles – brokers or recruiters, facilitators, coordinators and organizers, transporters and guides, and service providers – and have a close relationship with trafficking networks (Davy, 2017). This means that as smugglers continue to play a key role in migrants' journeys, their role is being reimagined (MMC, 2018), and in most situations, smuggling becomes trafficking and increases vulnerability (Bruni et al., 2017). It is also important to note that while the stereotypical smuggler or trafficker is male, women will typically recruit other women (Taub, 2017), and some of the women do choose sex work to pay for their journeys and cannot always be assumed to be VOTs. Furthering linkages between labour migration and trafficking, sometimes businesses that may appear legitimate have been found to be involved in trafficking (UNODC, 2020). Indeed, court cases have documented the convictions of owners and operators of companies in a range of sectors, such as agriculture, fishing, cleaning, construction, as well as the garment and food service industry and domestic care work in the region (these last three being dominated by women migrant workers especially) (United Nations, 2016a:6). In some cases, an opportunity for labour migration as a domestic care worker appears legitimate, as employers are often ordinary, seemingly non-criminal people, but working conditions amount to domestic servitude. Victims of this form of trafficking are typically recruited to work in houses of middle- or high-income families. In documented cases of trafficking for domestic servitude, literature and case narratives refer to family members forcing their domestic workers to work long hours, a lack of personal space, and coerced into limited movement and socialization outside the house (UNODC, 2020).

Smuggling typically involves migrants entering a consensual agreement with smugglers to move them transnationally (usually to circumvent blocked or truncated mobility), which heightens vulnerability to exploitation. Usually, the consensual agreement between the migrant and smuggler ends at the country of destination. However, trafficking can be internal or transnational and exploitation rarely ends at the destination point. Human trafficking within the WCA region is happening within, across and outside the borders of ECOWAS and CEN-SAD member States (Bruni et al., 2017). According to sources, 69 per cent of migrants aged 25 years or over reported treatment akin to human trafficking [and] that figure rose to 77 per cent for young people under the age of 25 years (UNICEF and IOM, 2017; Nanquette, 2020:240). In fact, intra-State trafficking (where victims had legal documents that have now expired) has a larger volume share of trafficking

than transnational trafficking as a result of smuggling (UNODC, 2020). Of course, evidential data and knowledge of migrant smuggling operations in the WCA region is limited or non-existent because irregular migration by nature is difficult to measure.

Within the north-east region, migration is a complex and dynamic characterized by intraregional and transcontinental mixed migratory patterns as countries of origin, transit and destination are conflated by the simultaneous hosting of refugees, IDPs, returnees, VOTs and labour migrants (Martín and Bonfanti, 2015). This is a region in which categories of migration cannot be clearly defined, as individuals flow from one category to the next because of the complex geopolitics and mixed flows in the region. In this way, the Sudan, which belongs to this region, is not only primarily a country of origin but also a key transit country, and to a lesser extent, a destination country. This complexity has led the region to become a space for human smuggling and trafficking, and it affects almost 80 per cent of the migrants from this region (ibid.) who may fall in between refugee, IDP and labour migrant categories. Nevertheless, as Martín and Bonfanti highlight, the refugee and IDP migration flows are underlined by the economic/labour migration flows (ibid.). Indeed, most labour migration flows are from the Sudan to North Africa (Egypt, Morocco and Tunisia) and to the Gulf States. Further complexity is added, since intraregional displacement is an important driver of mobility in the region, and the categories of migrants, IDPs and refugees are not always clearly delineated. Depending on context and circumstances, this can increase the likelihood of irregular migration, which in turn increases smuggling and trafficking. For instance, it has been documented that criminal groups have trafficked IDPs for sexual exploitation in the region (United Nations, 2016b). However, despite some documented accounts, data are sparse, since the nature of human trafficking makes it impossible to know the exact numbers of migrant worker VOTs in North Africa and the WCA region or the percentage of migrants who have been VOTs (IOM, 2014).

Given the regional complexity, it is particularly important that regional frameworks respond in a coordinated manner. One important mechanism for such a coordinated response is through RECs, which are a major development in the ongoing process of creating regional economic integration in Africa (see [Appendix N](#) for the full list) through facilitating labour migration and regional economic development (Aniche and Moyo, 2019). In particular, three RECs play a significant role in the governance of migration in the WCA region:

- (a) ECOWAS, which consists of 15 member States, is a regional powerhouse stakeholder established on 28 May 1975. Côte d'Ivoire and Senegal are member States while Morocco's membership was supported in principle by ECOWAS, but to this date, formal membership has not been accepted (BBC, 2017). The ECOWAS Protocol Relating to Free Movement of Persons, Residence and Establishment forms the normative migration framework that entitles WCA migrants' freedom of movement (rights of entry, residence and establishment of economic activities) across member State borders (Bruni et al., 2017; MMC, 2020). Article 59 of the revised ECOWAS Treaty states that "Citizens of the Community shall have the right of entry, residence and establishment and Member

States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto” (ECOWAS, 1993). As such, most irregular migrants in the WCA region are citizens of an ECOWAS country. These migrants are rendered “irregular” because of administrative disconnects (lack of knowledge, bureaucracy, corruption and low levels of development) rather than criminal or illicit reasons – the migrants have the right to freedom of movement in the region but lack legal travel documents. For example, since 2007, citizens of ECOWAS States have been able to reside regularly in Côte d’Ivoire without a residence permit (Bruni et al., 2017; see also ICMPD and IOM, 2015). The ECOWAS Commission approved the 2008 ECOWAS Common Approach on Migration process (ECOWAS Commission, 2008) to remove all obstacles to the movement of people.

- (b) CEN-SAD (24 member States) was established on 4 February 1998 and became an economic community in July 2000 (Bruni et al., 2017); all six countries (Côte d’Ivoire, Egypt, Morocco, Senegal, the Sudan and Tunisia) are member States. CEN-SAD is an important regional stakeholder in the fight to curb smuggling and eliminate trafficking. Article 1 emphasizes the free movement of persons whereby member State citizens have the same rights and obligations as those of the other signatory States. However, ECOWAS is more active in the region when it comes to migration governance, while CEN-SAD has been more dormant in this regard. The Sudan is also a member of another important REC – IGAD (which has eight member States and was established in 25 November 1996). The geographic region of the two RECs (CEN-SAD and IGAD) hosts deeply patrilineal and patriarchal cultural societies with pervasive gender inequalities – from access to education, health care, employment and decision-making power. As such, women have relatively low political status and power (IGAD, n.d.a). Yet, it is a region where women and men play considerable economic roles in the family unit, with women providing a higher proportion of the labour force (particularly in the agriculture sector and informal labour sector); women make up more than half of the informal labour traders including cross-border economy (ibid.).
- (c) COMESA (with 21 member States) was established in December 1994, and three of the countries in focus are members (Egypt, Tunisia and the Sudan). The main objective of COMESA is to promote peace and security in the region. The Gender and Social Affairs Division was established to promote gender equality and women empowerment through gender mainstreaming founded on the COMESA Treaty and COMESA Gender Policy (COMESA, n.d.).

These three RECs govern migration and economic development across three quarters of Africa’s geographic region with the major objective of reducing irregular migration. Despite the ECOWAS, CEN-SAD and COMESA REC agreements on migration governance, irregular migration thrives in key hubs around border crossing points close to Northern Africa including Agadez, Madama,

Arlit and Seguedine in the Niger and Bamako, Gao and Timbuktu in Mali where migrants embark on dangerous journeys toward Algeria, Libya, Morocco and Tunisia, and for some eventually to Europe (Bruni et al., 2017). Smuggling thrives in these areas as well because it “creates value by lifting the many hurdles restricting movement” (such as economic, geographic and legal) due to the “harsh environmental and security conditions and lack or absence of law enforcement” (MMC, 2017:9; UNODC, 2011).

The African Union has played a key role in migration governance within the WCA-North Africa region functioning as an umbrella governing body. It actively promotes the work of ECOWAS, CEN-SAD, COMESA, IGAD and the Southern African Development Community. The African Union adopted two important migration policies whose focus includes eradicating irregular migration, and curbing smuggling and trafficking: (a) MPFA; and (b) the African Common Position on Migration and Development. The African Union’s migration agenda is to facilitate migration within Africa by promoting regional mobility through RECs with a particular focus on youth and women. Its goals include the African Passport project, establishing a common market and abolishing all visa requirements for African citizens (Aniche and Moyo, 2019). Indeed, the African Union plans on having the free movement of people across all African States by 2028 with deeper inter-REC cooperation and integration. Their initiative is to “establish Schengen-type mechanisms of movement of skilled labour” (ibid.), but there is no mention of a specific mechanism for low-skilled labour mobility, and no mention of the challenge of informal labour. The opening up of borders and harmonizing common legislation and policies for labour mobility across the RECs should include all labour sectors (across informal and formal) if it is to reduce irregular migration, and in turn smuggling and trafficking of people. Smuggling and trafficking flows are both intraregional and global in nature, making it difficult to identify major trafficking hubs. For this reason, the African Union aims to criminalize and prosecute human smugglers and human traffickers operating within Africa. However, the African Union efforts have not curbed TIP within the region and more must be done.

Because of the ECOWAS and CEN-SAD protocols, transnational trafficking is more likely to happen within regular migration (when most 90-day visas expire), as most migrant VOTs are exploited between ECOWAS and CEN-SAD countries than irregular migration contexts whose dominant feature is smuggling. In most situations, smuggling becomes trafficking during the women’s journey and in transit countries, as increased vulnerability en route exacerbates their risk for trafficking (Bruni et al., 2017). There exists a thin line between smuggling and trafficking, which means smuggled migrant women workers and girls are at the greatest risk of trafficking: that is, trafficking follows smuggling (ibid.).

3.2. Countries in focus: Patterns and flows of migration and stocks of women migrants

3.2.1. Countries of origin: Côte d'Ivoire, Senegal and the Sudan

Migration movements in the origin countries (Côte d'Ivoire, Senegal and the Sudan) exist within a continuously changing context, with migration routes adapting to these contexts particularly those driven by violent conflict. Since the 1980s, Côte d'Ivoire has been a popular destination country for migrants because of its labour opportunities linked to commercial agriculture and mines, while Senegal offers opportunities to migrants because of its long-established trading route networks and agricultural opportunities (IOM, 2021a). On the other hand, the Sudan is largely regarded as a country of origin partly facilitated by the Four Freedoms Agreement with Egypt (Citizenship Rights in Africa Initiative, 2004), which guaranteed the freedom of movement, residency, work and property ownership for the citizens of both countries. Further, the Sudan is also a major transit country especially for refugees and IDPs from the Horn of Africa looking to claim asylum in European Union countries via Egypt or Libya.

In 2019, Côte d'Ivoire was the second highest migrant stock, 2.5 million international migrants (constituting 10% of the population) with 2.1 million constituting intra-African international migrants following only South Africa (IOM, 2021a; UNCTAD, 2018). It is the main destination for Burkinabè migrants who are the largest migrant group in the country. The Burkina Faso–Côte d'Ivoire labour migration corridor was set up by a colonial French administration policy to use Burkinabè territory as a labour reservoir, and even today most migrants work in the precarious sector (Cross, 2020). Rooted in its French colonization history, Côte d'Ivoire has always been dependent on migrant workers. As such, the Burkina Faso–Côte d'Ivoire corridor (~1.3 million migrants) and the Mali–Côte d'Ivoire corridor (~359,000 migrants) serve important links for commercial agriculture and informal trade, making Côte d'Ivoire a major country of destination especially for irregular migrants (UNCTAD, 2018). Cocoa and coffee production in Côte d'Ivoire continues to necessitate recruitment and movement of large numbers of labourers from countries of the WCA region.

However, as noted previously, violent conflict has shifted the movement of migration flows. As such, in-migration has reduced due to Côte d'Ivoire's political upheaval in the early 2000s and between 2010 and 2011 that triggered high numbers of migrants from Côte d'Ivoire, shifting the flows from migrant receiving to migrant sending. On the one hand, the ongoing political upheaval has led to many international migrants leaving the country and returning to their countries of origin; on the other, irregular migrants continue to travel through the country to North Africa and onwards to Europe (Gumba, 2021). The migrant journey commonly begins in Daloa where migrants “proceed via airplane to Tunisia, or overland via Mali and Algeria to Libya, or, to a lesser extent, via Niger to Libya” (ibid.:172). While human smuggling is not a prominent characteristic of migration in Côte d'Ivoire, migration flows are now characterized by TIP connecting countries

of origin, transit and destination in a complex web. Most migration to and from Côte d'Ivoire is assumed through regular migration channels because of the free movement protocols granted by the ECOWAS agreement.

For many migrant women and girls, Côte d'Ivoire is used as a transit country by smugglers and traffickers as they transport them to Saudi Arabia as trafficking victims exploited in forced labour and sex work. For example, many Ghanaian and Nigerian migrant women, some of whom are trafficking victims, travelling to Libya or Morocco onward to Italy use Côte d'Ivoire as a transit country (UNODC, 2010). Notably, Ivorian women migrant trafficking victims have been identified in Cyprus, France, Iraq, Israel, Italy, Kuwait, Libya, Morocco, Spain and Tunisia. For the majority of the women migrant workers, they migrated alone (either for economic reasons or family reasons), and knew at least one woman in their circle who had migrated regularly or irregularly, and Abidjan acted as a transit, departure and destination urban centre (Nanquette, 2020).

To have some level of comfort and safety, women migrant workers in the region tend to prefer to fly to countries with no entry visa requirements (that is, Algeria, Morocco and Tunisia) compared with the overland route, which men have a greater tendency to take (according to a study carried out by Nanquette, 2020). After leaving Côte d'Ivoire, women generally head to two primary geographic locations: Europe (53%, France, Italy and Spain) and North Africa (39%, Algeria, Morocco and Tunisia) (ibid.). Most women also financed their journeys using only their own funds, and those who borrowed from family and friends did not let them know what the funds were for (ibid.). Increased additional costs for their journey led some of the women being victimized in unpaid forced labour (domestic work) or ransom, especially those detained in Libya (ibid.).

Senegal remains a major origin country for Europe-bound migrants from non-traditional points of departure, which highlights the emergence of new regions for smuggling and human trafficking. Migration in Senegal can mostly be classified as irregular migration with seasonal labourers in the agriculture sector, making up the bulk of migrants in Senegal. In fact, emigration for labour is an institutionalized phenomenon in Senegal (and the wider WCA region) "where it is expected and valued as part of a life trajectory" (Bruni et al., 2017:29). Intracontinental migration out of Senegal shifted in the early 2000s as regional conflicts broke out. In fact, conflict (particularly in the southern region of Casamance) and weather-related disasters (such as the 2016 flooding and storms) have contributed to the IDPs' situation in Senegal (Internal Displacement Monitoring Centre, 2017). Most IDPs are not able to safely return to their homes rendering them as irregular migrants or refugees who are vulnerable to smuggling and trafficking. As a result, in the past decade, the lucrative criminal networks operating out of Senegal have increased migrant smuggling in the WCA region (Kane, 2020) despite regional measures like increased border checks and better cooperation with neighbouring countries like Morocco. The *2018 Global Slavery Index*, which provides a country-by-country ranking of the number of people in modern slavery, ranked Senegal 109 out of 167 countries (Minderoo Foundation, 2018).

Unlike Côte d'Ivoire and Senegal (ECOWAS members), the Sudan is geographically located in the North-East Africa region. Because of its geographical and strategic significance, in the context of migration journeys, the Sudan sees significant numbers of migrants from the Horn of Africa (particularly from Ethiopia and Somalia) travelling by land (IOM, 2018) more so than migrants from the WCA region. The Sudan has a long history of migration, specifically as a country of origin (Sudan–South Sudan corridor (563,000) and the Sudan–Chad corridor (344,000) (UNCTAD, 2018). Its reputation as a destination and transit country is a recent development (Yahya, 2020), and while the least common route to cross the Mediterranean into Europe is through the Sudan and Libya, it is a route favoured by irregular migrants who use this route to reach Saudi Arabia (a primary destination for irregular migrants). The IOM (2017b) study on migration in the Sudan found that the top five countries of migrants in the Sudan were Eritrea (51%), Ethiopia (22%), Nigeria (15%), Somalia (13%) and the Syrian Arab Republic (5%), while the remaining 17 per cent came from another 12 countries; importantly, one third of migrants were women.

Male migrants, and in particular young men, primarily use the Sudan as a transit country on their journey through Egypt or Libya onto their final destinations in Europe. On the other hand, young women migrant workers preferred Djibouti or Eritrea. Political conflict and war in Eritrea, Ethiopia, Somalia and South Sudan has led to huge numbers of migrants moving into the Sudan. However, the extreme mobility of migrants between Egypt, Libya and the Sudan and as they move into Europe makes it difficult to track and map out migration flows and routes (Ayalew et al., 2018; Yahya, 2020). Flow monitoring data indicates that 3 per cent of migrants crossing through the Arlit, the Niger flow point were Sudanese transiting to Algeria (IOM, 2019c). Majority of the modes of transportation for migrants were travelling by bus (50%), private vehicles (47%), trucks (2%) and motorbikes (1%), and most travel for economic migration (six or more months), seasonal migration (less than six months) and short-term local movement (ibid.).

Emerging networks of smugglers have become a trend in the Horn of Africa region, as many migrants have little to no opportunities for regular migration. Such transnational and translocal smuggling networks connect origin, transit and destination locations in this migration corridor. For example, smuggling of Ethiopian migrants to the Sudan occurs along the north-western route through Khartoum, via the town of Metema (a major smuggling node) located along the Ethiopian–Sudanese border, en route to Europe via the eastern Sahara Desert, Libya and the Mediterranean Sea (Ayalew et al., 2018). Moreover, Sudanese and Libyan smugglers (*semsari*) organize overland journeys via Libya to Italy and then to Scandinavia or by air directly from the Sudan or via Saudi Arabia to Europe. Indeed, approximately 90 per cent of irregular migrants arriving in Italy undertook their maritime journey from the west coast shores of Libya closest to the Straits of Sicily and Lampedusa (Davy, 2017; Sahan Foundation and ISSP, 2016). Davy highlights that these smugglers “tend to work in loose, horizontal networks, though more organized criminal groups have been detected, particularly on the North-western route to Europe” (2017:7) through the Sudan and Egypt.

The Sudan has a long history of human trafficking dating to pre-separation from South Sudan (July 2011) because of its strategic geographic position providing pathways between the WCA region and East Africa. But data on human trafficking is limited and, in most cases, non-existent. However, the available data shows that most migrants (as least 73%) use smugglers for some part of their journey, and the desert journey from the Sudan to Libya takes about one week through extremely isolated areas (Sahan Foundation and ISSP, 2016), and migrant abduction for the purpose of extortion from relatives back home is a common practice (MMC, 2017). While crossing the desert, migrants are at risk for abuse, kidnapping, extortion, sexual exploitation, death, trafficking, lack of access to medicine, dehydration, starvation, confinement, deprivation of sleep and drowning at sea, and these protection risks happen at an alarming rate in the Sudan and Libya. Like the other countries profiled in this report, smuggling and trafficking are closely intertwined crimes in the Sudan, as many people in the region fleeing conflict and poverty initially employ the services of smugglers who in turn coerce and traffic the migrants. For example, Darfuri armed groups primarily target Sudanese women and girls, especially IDPs for commercial sexual exploitation. Abuse on migrants is usually carried out by specialized criminal groups (such as Chadian and Egyptian armed groups who intercept migrants from the Sudan travelling through Libya) more so than by the smugglers/smuggling networks in the Sudan (Sahan Foundation and ISSP, 2016). Indeed, the smuggler–migrant relationship is in most cases largely defined by trust and built-in safeguards. Nevertheless, smuggling networks are complicit in protection abuses against migrants pointing to a dual role of protector and abuser as some level of collusion between them and traffickers exists (Davy, 2017). For example, if the smuggled migrant workers are unable to pay the fees for the first part of their journey, they are sold to ransom collectors and human traffickers in the Sudan (Sahan Foundation and ISSP, 2016). Indeed, as of 2016, the smuggling business along the north-western route was worth approximately USD 203 million (Davy, 2017).

Traditionally, most smuggled migrant workers through the Sudan were young men (25–35 years), but recent trends show a significant increase in women migrants being smuggled (and in some cases trafficked) (*ibid.*), paralleling the trend seen in the WCA region. Indeed, most of the migrants taking the north-western corridor (the Metema route) to enter the Sudan and further out to North Africa and Europe are women migrant workers employed in domestic work. In 2015, for instance, 63.73 per cent of the migrants caught trying to cross into the Sudan were women (Ayalew et al., 2018). Moreover, after the 2013 ban of migration into the Middle East by the Government of Ethiopia, the number of irregular women migrants in the Sudan has increased significantly (*ibid.*; Faiz, 2013). While in Khartoum, the Sudan women migrant workers face sexual, physical and labour abuses by smugglers, traffickers and employers (Ayalew et al., 2018).

Women migrant workers indicated that they were harassed and abused while travelling through the north-western route (Metema route) and have either witnessed or been victims of sexual abuse along their journey (Davy, 2017). Moreover, migrant women reported that smugglers/brokers and traffickers were the main perpetrators of the abuse (approximately 40% of the reported cases), followed by border guards and police (*ibid.*). Women migrants are kidnapped by

militia groups in the Sudan and Libya then detained and raped; the women are held in smuggling dens (safe houses) while their families transfer ransom money (ibid.). Additionally, while in the Sudan, Ethiopian women migrant workers face forced commercial sex, physical and sexual abuse, verbal abuse, long working hours and restricted mobility (Faiz, 2013). These forms of abuse are also reported by women migrant workers in the WCA region.

Migrant women populations located in the eastern provinces of the Sudan were sexually exploited by government officials tasked with protecting them, with Eritreans representing the highest number of victims where there is a consistent flow of migrants and asylum-seekers (US Department of State, 2020a and 2021a). Ethiopian women are mainly forced into domestic servitude and sex work in Khartoum through debt bonds and coercion. Eritrean women living in refugee camps and near camps are transported specifically to Libya where traffickers extort and exploit them. Eritreans' vulnerability to trafficking in the Sudan is exacerbated by Eritrea's strict exit control (such as issuance of passports and travel documents) that compels those who cannot obtain documents to employ the services of smugglers. Nevertheless, traffickers and smugglers targeted and exploited women from the WCA region – Chad, Mali and the Niger – who arrived in the Sudan through irregular migration routes.

3.2.2. Countries of destination: Egypt, Morocco and Tunisia

Egypt, historically, was regarded as a major country of origin (3.4 million) primarily to extracontinental destinations (UNCTAD, 2018), but today, it is primarily a country of transit and destination. The spatial pattern of the migration population in Egypt indicates that in 2017, the migration population exceeded 2.2 million (Ma et al., 2021), and it is a central hub for irregular maritime journeys to Europe occurring from Benghazi and Tobruk, as well as from near Alexandria in Egypt (Davy, 2017; Sahan Foundation and ISSP, 2016). Today, Egypt hosts over 6 million migrants acting as both a country of transit and destination (IOM, 2021b). Cairo has been used as a transit airport for asylum-seekers flying from the Horn of Africa directly to European countries, particularly to Germany (UNODC, 2010). Egypt is actively engaged with the Global Compact for Migration (IOM, 2021b). In 2017, the Government of Egypt set up the Migration Data Analysis Unit in a bid to recognize and develop action plans for accurate migration data collection to support evidence-based policy development (ibid.).

Egypt has a complex migratory structure, with migration flows driven by the instability in the Middle East and Horn of Africa (IOM, 2014; UNICRI, 2016) as migrants' transit through Egypt to reach Europe (specifically Greece, Italy and Malta) by sea. In Egypt, the most vulnerable to smuggling and trafficking are women who are refugees, asylum-seekers or foreign domestic workers⁸ arriving mainly from Ethiopia, Eritrea, Somalia, Gambia, Nigeria and the Sudan (UNICRI, 2016). The most reliable data on migrant workers in Egypt indicates that as of 2011, there were

⁸ Any person engaged in domestic work within an employment relationship (Art. (1/B), Domestic Workers Convention, 2011 (no. 189)).

250,000 to 500,000 migrants, and a vast proportion are from Eritrea, Iraq, Libya, Somalia and the Sudan (IOM, 2014). Of the three countries of destination in this study (Egypt, Morocco and Tunisia), Egypt has the highest number of migrants. Most migrants are located in Cairo; others in Alexandria and Giza. Most Sudanese migrants are concentrated in the south along the Sudan/Egypt border. Most Ethiopian and Eritrean migrant women in Egypt are single women, while most Sudanese women migrate from the Sudan as family units, and a vast number of Ethiopian and Eritrean migrant worker VOTs are smuggled victims who become trafficking cases (ibid.). In past years, some Sudanese citizens en route to Europe via Egypt were detained in the Sinai Peninsula, where they were vulnerable to exploitation.

Migrants, particularly irregular migrants from East Africa, are subjected to forced labour in domestic service, construction, cleaning, begging and sex trafficking in Egypt; although, in 2017, there was a spike in trafficking of West African victims. Women and girls are smuggled and trafficked for “temporary” or “summer marriages” for the purpose of commercial sex and forced labour in the Arabian Gulf, including Kuwait, Saudi Arabia and the United Arab Emirates through “the victims’ parents and marriage brokers, who profit from the transaction and often facilitate these arrangements” (US Department of State, 2020b:194; 2021b).

Morocco has been and continues to be a source, destination and transit country for migrants (UNICRI, 2016). While precise data is scarce, it is estimated that 25,000 to 40,000 sub-Saharan migrants find themselves in an irregular situation in Morocco, with surveys indicating that women account for around 20 per cent of the total number of irregular migrants. Morocco does not require visas for citizens coming from six African countries (Algeria, Côte d’Ivoire, Gabon, the Niger, Senegal and Tunisia), while those coming from the Democratic Republic of the Congo, Guinea and Mali are only subject to an Electronic Travel Authorization, which can be obtained 96 hours before departure.

This difficulty in crossing into Europe from Morocco has turned the country from a major transit space to a forced destination space for stranded migrants mostly from the WCA region (MMC, 2017). Read as a relatively prosperous African nation, many migrants who are unable to make it to Europe remain in Morocco as their default final destination. However, Morocco is not necessarily considered a final destination country by many migrants. In fact, according to a DESA report, there were approximately 96,000 international migrants living in Morocco in 2017, most of whom plan to leave for another country (DESA, 2017). Indeed, both Morocco and Tunisia are not primary host countries. Between 2015 and 2017 there was a “migratory explosion” off the coasts of Morocco, Libya and Tunisia (Lahlou, 2018), and the Libya–Italy migration corridor was the main route for irregular migrant flows. But in 2018, irregular migration flows were primarily through the Morocco–Spain corridor, which is the traditional route. Thus, in 2018, Morocco was the primary country of departure for migrants en route to Europe via Spain (the main gateway to Europe), with nearly 37,000 irregular migrants transiting through the country (ibid.). Broader regional dynamics influenced this increase: (a) the 2016 agreement between Türkiye and the

European Union closed the migratory route between Türkiye and Greece; and (b) the 2014 Khartoum Process on cooperation on migration and mobility between Europe and the East and Horn of Africa. Prior to 2005, most irregular migrants arriving on the Spanish Canary Islands were Moroccan nationals, but after 2006, the majority were from Senegal and the sub-Saharan Africa region (UNODC, 2010). However, the number of sub-Saharan irregular migrants who entered Morocco in 2019 “decreased by an estimated 50–60 per cent in comparison to 2018, but the number of Moroccan migrants departing for Europe reportedly increased” (US Department of State, 2020c:360; 2021c).

Approximately 87 per cent of sub-Saharan migrants transiting through Morocco had used the services of a smuggler (UNODC, 2010). The town of Oudja on the Algerian border and the northern coastal town of Nador are significant smuggling and human trafficking points for migrants transiting through Morocco. Research data from Italy indicates that the Casablanca–Tripoli flight path is frequently used by a network of Moroccan smugglers to move migrants to the embarkation points in the Libyan Arab Jamahiriya (ibid.). Most of the migrants are between 20 and 35 years, and almost one fifth are female (ibid.). While the “land border between Algeria and Morocco has been closed since 1994, [it remains] relatively simple to cross the border accompanied by a Moroccan or Algerian smuggler to reach Oujda,” and almost 70 per cent of irregular migrants entered Morocco through this Maghnia–Oujda border (UNODC, 2010:15).

Documented and undocumented women migrants are highly vulnerable to forced labour and sex trafficking in Morocco and in Europe and as they transit to Spain and further to Europe. This is a similar trend seen in Egypt and Tunisia. Women migrant workers in Morocco come from both Francophone and Anglophone sub-Saharan African countries, and similarly to men are motivated by economic, sociocultural and humanitarian factors. In particular, undocumented women migrants from sub-Saharan Africa are targeted by human trafficking networks for sex trafficking in Morocco because they are considered a valuable commodity to be exploited through prostitution (US Department of State, 2020c and 2021c). Between 2017 and 2019, Morocco registered 719 victims of human trafficking, including 283 victims of sexual exploitation and 35 victims of labour exploitation (Hekking, 2020). Vulnerabilities that women face as migrants are related to the absence of consistent, safe or fairly remunerated work, residency or migration status and access to services, as well as GBV and exploitation along the migration route, which are further compounded for those with irregular status. In 2019 alone, the Government reported it identified 423 trafficking victims (including both children and adults), of which 277 are Moroccans and 146 are foreigners (US Department of State, 2020c and 2021c). According to representatives of some CSOs in Rabat, migrant domestic workers, mainly from Côte d'Ivoire, the Philippines and Senegal, have been brought to Morocco irregularly in recent years, and many of them have been smuggled into the country and forced into domestic servitude (Lahlou, 2018).

There has been a significant increase in the number of VOTs in Morocco in recent years. Most VOTs and irregular migrants originated mainly from sub-Saharan Africa. The most common migrant worker VoT profile is Nigerian women trafficked for prostitution in Morocco and in Europe, specifically Italy where they are also forced into domestic work (IOM, 2014). Moroccan women are also exploited in forced labour and prostitution in Europe, but this data is difficult to find. Lahlou further notes that many Senegalese migrant women and girls smuggled into Morocco are exploited in domestic servitude where their wages (in part or full) are transferred to their parents, and are allowed to visit home once every two years at most (ibid.). Another migration trend that has emerged in the last 10 years is the prostitution of young girls (12–14 years old) who migrated with traffickers under the false context of “protection” (Lahlou, 2018; UNODC, 2010). This follows the general trend of adult women migrant workers travelling in groups under the protection of “their” men who restrict their mobility, and are at risk for commercial sexual exploitation to pay for their protection (Lahlou, 2018).

Like Morocco, Tunisia was greatly impacted by the 2011 crisis across Northern Africa. The crisis resulted in a major shift in migration patterns in which Tunisia became a transit country for many migrants from the WCA and sub-Saharan Africa regions, since it acts as a gateway to Europe, and is now, as some would argue, a de facto destination country (IOM, 2014). For example, Tunisia faced a massive influx of migrants fleeing Libya (the 2011 Libyan crisis) in search of protection, and they included victims of human trafficking (IOM, 2013). Prior to 2004, most migrants in Tunisia consisted of sub-Saharan students, employees of the African Development Bank and North-African workers (IOM, 2014). The 2011 Libyan crisis led to approximately 350,000 Libyans entering Tunisia. Tunisia is not a main point of departure for migrants to Europe because of the rigid control on the coast; it is mainly a transit country to Libya. Moreover, in the events after the Tunisia Arab uprising, Tunisia also became a migrant-sending country, as Lampedusa reported an influx of 20,258 Tunisian migrants between January and March of 2011 (David and Marouani, 2017). Tunisians continue to migrate mainly to Europe: specifically, to France (38%) and Italy (ibid.) due to economic stagnation in the country. There was also a spike in Tunisian migrant flows to Libya, a former destination country, after the Arab uprisings, and the migrants, who are predominantly male (85%), come from rural areas of Tunisia (ibid.).

Trafficking in persons in Tunisia is common and has decades old history (Dhaouadi, 2019) despite laws prohibiting and punishing forced labour and commercial sexual exploitation. Smugglers and/or traffickers exploit both well-educated and low/non-skilled migrants. On the one hand, they exploit well-educated migrants (who are seeking better pay in Tunisia), through fraudulent offers of jobs and then hold them in debt bondage and forced labour in domestic servitude. On the other hand, they target low/non-skilled migrants for forced labour in agriculture, construction and sex work, and they too are held in debt bondage. Regardless of these risks, for many migrants from Côte d’Ivoire, the primary destination countries are Morocco and Tunisia because no visa is required to enter either country, allowing Ivorian migrants a 90-day visa-free visit in each country

(IOM, 2020b). As such, for Ivorian women (and indeed other migrant women), Tunisia particularly functions either as a final destination country or a transit country to Libya or further into Europe (Nanquette, 2020). However, many women migrant workers are at increased risk of becoming VOTs if their stay is not regularized past the 90-day visa-free period due to their precarious legal status. Indeed, IOM (2020b) reported that 80 per cent of identified migrant VOTs in Tunisia were Ivorian nationals, with the majority being women.

Many women migrant workers from countries, such as Cameroon, Côte d'Ivoire, the Democratic Republic of the Congo, Mali, Nigeria and Senegal are smuggled into Tunisia, and many are trafficked as forced domestic servants mostly within Tunisia, in Libya and Italy (IOM, 2014), and further exploited in nightclubs as servers where they are forced into commercial sex work (US Department of State, 2020d and 2021d). For instance, there are reports from some civil society groups that Ivorian migrant women are placed under contract as soon as they leave Côte d'Ivoire, which includes confiscation of their passport and other legal identity documents on arrival in Tunisia. Under these circumstances, remaining a legal migrant is impossible since their identity documents have been confiscated (Nanquette, 2020). The significant cases of migrant smuggling involve human trafficking (Dhaouadi, 2019). These experiences and realities for Ivorian migrant women parallel experiences of other migrant women in Tunisia and also those in Egypt and Morocco. Importantly, while the migrant women may be aware of the risks for irregular migration, they are not fully aware of the consequences. In general, women from the aforementioned countries are considered to be the most vulnerable to human trafficking, especially for commercial sexual exploitation and forced labour in Egypt, Morocco and Tunisia, and as they transit through these countries to reach Europe (US Department of State, 2020b, 2021c and 2020d). However, comparatively, cases of trafficking are less in Tunisia than in Egypt and Morocco due to different migration profiles and lower numbers of irregular migrants (IOM, 2014).

3.3. Women migrant worker stocks and flows within the country corridors

The history of women's migration in Africa has remained largely eclipsed vis-à-vis the men migrants, let alone their experiences, although women have always engaged in both intracontinental and transcontinental migration both independently and with family for various reasons, such as economic opportunity, escaping violent conflict, oppressive cultural constraints and GBV. Secondary data analysis across four main databases (DESA, World Bank, Organisation for Economic Co-operation and Development and IOM/Frontex) provides an overview of the women migrant stock and flows across the country corridors under study (ILO, 2020). From the analysis, women migrants are a significant missing piece in the data indicating gendered patterns of data collection and analysis.

Table 3. Summary of analysis findings by migration corridor (women only), 1990–2020

Statistic	Count type	Migration corridors		
		Senegal–Morocco	Côte d'Ivoire–Tunisia	Sudan–Egypt
Count	Stock	943.00	325.00	28 250.00
2020	Flow	60.00	14.00	12 283.00
Mean	Stock	690.71***	290.43***	12 864.14***
1990 to 2020	Flow	60.33	8.17	3 558.33
Standard error	Stock	116.79	20.90	6 469.18
1990 to 2020	Flow	64.31	34.74	5 407.33
Annual change	Stock	13.37***	1.12	717.63***
1990 to 2020	Flow	5.70	0.81	376.87

Source: ILO, 2020.

Notes: Statistical significance occurring beyond the following confidence intervals: * -90%; ** -95%; and *** -99%. Standard error listed for a 95% confidence interval. Annual change estimated using linear regression modelling.

Senegal to Morocco: This corridor featured a stock count of 943 women migrant workers in the destination country in 2020, compared to 1,233 in 1990. Based on these stocks, an estimated flow of +173 women migrant workers to the destination country from 2015 to 2020, compared to -101 in 1990 to 2000, for a total increase of 20 women migrant workers/year. The average woman migrant stock in the destination country was ~690 women migrant workers, which was significantly more than zero ($p < 0.01$). The average migration flow data indicated ~+60 women migrant workers. According to linear regression modelling, the estimated annual change in women migrant stock to the destination country was +13.37 women migrant workers/year, which was significantly different than zero ($p < 0.01$), meaning the growth is statistically significant and not the product of random error. The stock of women migrants in this corridor made up ~0.8 per cent of all women migrant workers from Senegal to Africa and ~0.36 per cent worldwide in 2020. Also, women migrant stocks made up ~7.12 per cent of all African women migrant workers and ~1.9 per cent of all women migrant workers worldwide in Morocco in 2020. Women made up ~48.43 per cent of migrant stock in this corridor in 2020, compared to ~47.12 per cent in 1990.

According to the World Bank's Global Bilateral Migration, this corridor featured a stock of 1,850 migrants in 2017; this was ~95.02 per cent of the DESA estimate for 2020 (World Bank, n.d.). This stock composed ~0.29 per cent of all Senegalese migrants worldwide and ~1.7 per cent of migrants from all sources in Morocco. There were no estimates for women. The United Nations

Special Rapporteur was informed by civil society interlocutors that some young women and girls from Côte d'Ivoire and Senegal were trafficked to Morocco and forced to do domestic work. According to the National Human Rights Council, there is a growing number of foreign domestic workers, a significant proportion of whom are exposed to the risk of being trafficked by unlicensed agents and unscrupulous brokers. Most trafficked domestic workers are not paid, and those who are paid receive a tiny fraction of the wages promised. Their passports are seized, and payment is demanded for their return. Data on migration, particularly irregular migration, are scarce in Morocco. In 2014, a census estimated there were 84,000 migrants in the country, without a breakdown by status or type of entry. Senegalese migrants are also seen travelling through the western Mediterranean route, with over 2,000 Senegalese arrivals being recorded in Spain in 2018 and 2019 each. Given the dynamics through the western Mediterranean, it is very likely that a greater number attempted but did not realize the journey to Spain, meaning that there is likely to be a sizeable population of Senegalese migrants remaining in limbo in Morocco.

Côte d'Ivoire to Tunisia: This corridor featured a stock count of 325 women migrant workers in the destination country in 2020, compared to 276 in 1990, for a total increase of 49 women migrant workers. Based on these stocks, an estimated flow of +14 women migrant workers to the destination country from 2015 to 2020, compared to -4 in 1990 to 2000, for a total increase of 3.6 women migrant workers/year. The average women migrant stock in the destination country was ~23 women migrant workers, which was significantly more than zero ($p < 0.01$). The average woman migrant flow was ~+8 women migrant workers, which was not significantly different from zero. According to linear regression modelling, the estimated annual change in women migrant stock to the destination country was +1.12 women migrant workers/year, which was not significantly different from zero. Using the same method, the estimated annual change in woman migrant flow was +0.81 women migrant workers/year, which was not significantly different from zero. Women migrant stocks in this corridor made up ~0.07 per cent of all women migrant workers from Côte d'Ivoire to Africa and ~0.06 per cent worldwide in 2020. Also, women migrant stock made up ~2.11 per cent of all African women migrant workers and 1.13 per cent of all women migrant workers worldwide in Tunisia in 2020. Women made up ~47.45 per cent of migrant stock in this corridor in 2020, compared to ~50.18 per cent in 1990.

This corridor featured a stock of 658 migrants in 2017 (World Bank, n.d.), and this was ~96.05 per cent of the DESA estimate for 2020. This stock comprised ~1.07 per cent of all Ivorian migrants worldwide and ~0.06 per cent of migrants from all sources in Tunisia. There were no estimates for women. Due to a lack of research, there is very little information about emigration trends from Côte d'Ivoire; this is likely because emigration from Côte d'Ivoire is seen as a more limited phenomenon compared to immigration into the country (ICMPD and IOM, 2015). Between January 2012 and October 2019, 85 per cent of the 823 VOTs identified by IOM in the North African country were Ivorians. Most of the 575 Ivorian victims – mainly women

(including 3 minors) – were in situations of domestic servitude in the Tunisian cities of Sfax, Tunis, Sousse and Gabes.⁹ Initially, the country's political upheaval between 2002 and 2010 triggered the high numbers of migrants from Côte d'Ivoire. In the ten years since then, irregular migrants have continued to travel to North Africa and on to Europe. Côte d'Ivoire's 31 October 2020 elections saw Alassane Ouattara win a third term in office. Exploitation begins in Côte d'Ivoire for those who are unable to afford air tickets and opt to obtain "boxing tickets". This term refers to a ticket bought through a local intermediary, a travel agency employee or someone in Tunisia. The migrant must repay the cost of the air ticket and other fees amounting to 500,000 CFA (West African franc = USD 900) once they reach their destination (Gumba, 2021).

Sudan to Egypt: This corridor featured a stock count of 28,250 women migrant workers in the destination country in 2020, compared to 6,900 in 1990, for a total increase of 21,350 women migrant workers. Based on these stocks, an estimated flow of +12,283 women migrant workers went to the destination country from 2015 to 2020, compared to -1,525 in 1990 to 2000, for a total increase of 2,761.6 women migrant workers/year. The average women migrant stock in the destination country was ~12,864 women migrant workers, which was significantly more than zero ($p < 0.01$). The average flow data for migrant women was ~+3,558 women migrant workers, which was not significantly different from zero. According to linear regression modelling, the estimated annual change in women migrant stock to the destination country was +717.63 women migrant workers per year, which was significantly different from zero ($p < 0.01$). Using the same method, the estimated annual change in woman migrant flow was +376.87 women migrant workers/year, which was not significantly different from zero. Women migrant stock in this corridor made up ~4.56 per cent of all women migrant workers from the Sudan to Africa and ~2.97 per cent worldwide in 2020. Also, women migrant stock made up ~39.69 per cent of all African women migrant workers and 11.11 per cent of all women migrant workers worldwide in Egypt in 2020. Women made up ~47.03 per cent of migrant stock in this corridor in 2020, compared to ~45.44 per cent in 1990. Migrant flows in this corridor were 15,809 in 2000, compared to 28,828 in 1960, a decrease of 13,019 migrants (World Bank, n.d.). Women migrant workers flows in this corridor were 7,266 in 2000, compared to 10,002 in 1960, a decrease of 2,736 migrants. The average migrant flow during this period was 20,437.4 migrants, which was significantly more than zero ($p < 0.01$). The average women migrant flow during this period was 8,406.2 migrants, which was significantly more than zero ($p < 0.01$). Based on available comparisons, these data are substantially different from the estimates of DESA. For 2000, the only year of comparison available, these data report ~125.36 per cent more migrants and ~276.91 per cent more women migrant workers moved in or out of Egypt compared to DESA. According to the World Bank, this corridor featured a stock of 33,459 migrants in 2017; this was ~55.70 per cent of the DESA estimate for 2020. This stock composed ~1.66 per cent of all Sudanese migrants worldwide and ~6.02 per cent of migrants from all sources in Egypt. There were no estimates for women.

⁹ According to 2019 IOM news titled "Combating trafficking in persons focus of Côte d'Ivoire–Tunisia bilateral co-operation".

Despite efforts to document migration routes within the WCA–North Africa region (across the six countries under study: Côte d’Ivoire, Egypt, Morocco, Senegal, the Sudan and Tunisia), data remains scarce and inaccurate because of changing migration and asylum policies and controls (IOM, 2021a), impacting the free movement of migrants. Data has shown that vulnerability to human trafficking is specific to migration corridors because “vulnerability is a product of circumstance rather than an inherent characteristic of persons” (Digidiki et al., 2021) and the choice of migration route by migrants is greatly determined by the migrant’s country/region of origin (IOM, 2021a). Indeed, global trafficking routes overlap with migration routes (UNICEF and IOM, 2017). As of 2017, the top intra-African migration corridors were Burkina Faso–Côte d’Ivoire (1.3 million migrants), South Sudan–Uganda (0.9 million migrants), Mozambique–South Africa (0.7 million migrants), the Sudan–South Sudan (0.5 million migrants) and Côte d’Ivoire–Burkina Faso (0.5 million migrants) (UNCTAD, 2018).¹⁰

¹⁰ For the full summary of the migration corridors in the WCA and North Africa region, refer to [Appendix F](#).

Legal and policy analysis

Owing to the multiplicity and complexity of legal issues and challenges, and impossibility of dealing with all the migration issues facing migrant women in the six countries in focus, this project concentrates on eight key thematic areas (expounded further hereon). This section provides an analysis of the legal and policy instruments related to migration, trafficking, smuggling and labour in all the six countries (Côte d'Ivoire, Senegal, the Sudan, Egypt, Morocco and Tunisia). Further, this section examines the gaps within these legal and policy instruments, particularly as seen through a gender lens, and in turn discusses how they contribute to the abuse and exploitation in labour migration, trafficking and smuggling of women migrants. This section also provides an analysis of the ways in which there exist close and gendered intersections and interlinkages across women's and girls' labour migration, smuggling and trafficking.

It is to be noted that all the three countries of origin included in this report (Côte d'Ivoire, Senegal and the Sudan), as well as the countries of destination (Egypt, Morocco and Tunisia), are party to the United Nations legal instruments on human smuggling and trafficking and have also ratified 40 different ILO conventions related to the rights of migrant workers. The gender equality and women's rights framework (see previous section on methodology), which is anchored in the Convention on the Elimination of All Forms of Discrimination against Women, particularly in terms of its definition of non-discrimination and substantive equality and State obligation, undergirds the legal and policy analysis. The key thematic areas are derived from key international legal and normative instruments pertaining to migration, trafficking, smuggling and labour with a focus on the rights of women as enshrined in the Convention, including relevant ILO General Recommendations 26, 19, 35 and 38 (refer to [Appendix G](#) and [Appendix H](#)). Indeed, State parties are obligated to use the Convention and the General Recommendations to formulate gender-sensitive, rights-based policies based on equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers. The legal and policy analysis is informed by the information obtained through KIs and secondary sources that provide a more holistic analysis of the systems with an emphasis on implementation and policy coherence.

4.1. Gendered intersections: Labour migration, migrant smuggling and human trafficking

As previously noted, African women are on the move. The number of migrant women in Africa has increased from 7.4 million in 1990 to 11.6 million in 2017 (UNCTAD, 2018). Women migrant workers in the WCA region actively migrate and are primary decision-makers, and the majority are young adults (24–35 years) (IOM, 2021a). This same IOM study indicated that most migrant women in WCA were from Burkina Faso, Guinea, Mali, Nigeria and the Niger (*ibid.*). Moreover, the study found that women migrants from the WCA region prefer to stay within the continent (avoiding risks linked with long travel) in comparison to their male counterparts who had a higher likelihood of getting to Europe.

On average, in Africa as a whole, women carry out almost three times more unpaid household and care work than men (ILO, 2016). The highest gender unemployment gap is found in Northern Africa and the Arab States with the female youth unemployment rate is almost double that of young men, reaching as high as 44.3 and 44.1 per cent, respectively. The increasing demand for domestic and care work workers globally has created opportunities for African women to migrate for employment, while raising concerns over the quality of working and living conditions abroad (African Union, 2020). Outside of the region, demand for care workers in the Gulf Cooperation Council and Middle Eastern countries has generated significant flows of women migrants, in particular from East Africa and also from West Africa (ILO, 2013). Indeed, in many cases, women migrant workers are more employable (in the domestic sector) in transit and destination countries than men. However, the domestic care sector has long been prone to informality, lack of regulation and precarity. This precarity was exacerbated during the COVID-19 pandemic when the disruption to the informal economy by disproportionately affected women migrant workers in the region, as they comprise the largest group of workers within the highly precarious domestic care sector. Surveys conducted by UN Women showed that the pandemic significantly affected women migrant workers' mental health (stress, depression, loneliness and anxiety), and support services were hard to access in the context of quarantine measures (UN Women, 2020). Travel restrictions meant women migrant workers could not reach home and many were left trapped and in abusive situations (*ibid.*), and faced heightened human rights violations and health risks (Hennebry and KC, 2020). Incidents of xenophobia and racism against women migrant workers also increased in this time, manifesting in overlapping ways: verbal and physical abuse/assault, hateful rhetoric and behaviour at the individual, community and structural levels (*ibid.*). United Nations figures show that 92 per cent of women in low-income countries work in the informal economy (UN Women, 2020). Due to the loss of employment and mobility, women migrant workers were expected to perform unpaid household work and placed at increased risk of GBV. The COVID-19 pandemic has also significantly impacted the anti-trafficking capacity of all the six countries in focus in this report, amplifying socioeconomic and health inequalities, increasing the situations of vulnerability for women migrant workers. For example, in Tunisia, following the COVID-19 pandemic, the living conditions of irregular migrant women have deteriorated further,

the institutional actors interviewed in the field noted: “With COVID-19, we went from dark grey to completely black; they suffered especially at the beginning of the crisis when everyone was disoriented”. The most impacted are older women migrant women and those with special needs and medical conditions (IOM, 2021b).

Women migrant workers, particularly single women, represent a shift in the sex-gender system, as women integrate into the public space of employment, and this transformation makes women more vulnerable to SGBV by smugglers, traffickers, employers, border guards and police (IOM, 2014). SGBV “indexes throughout the entire migratory process and in destination countries represent a real threat to the lives and rights of women and children” (IOM, 2014:101). An MMC report (2018) indicates that 30 per cent of migrant women from the WCA region paid for their journeys with their own savings and 48–58 per cent paid for their migration journeys (between GBP 5,500 to GBP 60,000) in stages leaving them more vulnerable to protection risks. The relative ease of movement between ECOWAS member States means most migrant women in the region begin their journeys with no assistance or the aid of smugglers, but many encounter them on route through transit countries. However, 20 per cent of women in the MMC study reported employing the services of a smuggler at the beginning of their journey, while 45 per cent women indicated that the smugglers located them as they arrived in new locations along their routes (ibid.). Moreover, the same study found that 64 per cent of the women described their smugglers as professional services, 18 per cent as criminals, and 9 per cent as travel agents. The clandestine nature of transit migration means that women migrants have difficulty obtaining adequate identity documents in order to access services and support while in transit countries, and once arrived in destination countries – heightening their precarity and insecurity along the way. Specifically, food insecurity was reported mostly by women travelling alone, while accommodation insecurity was reported by women travelling in groups (IOM, 2021a; MMC, 2018).

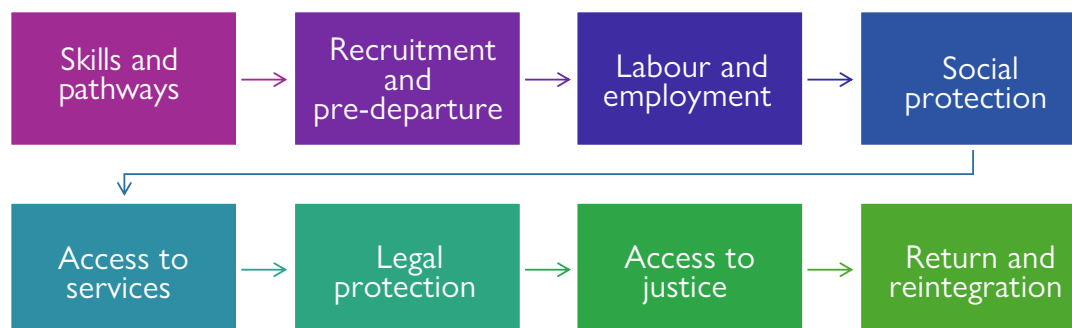
Human trafficking of women and girls to intraregional and extraregional destinations has become a significant and pervasive characteristic of migration patterns in the WCA–North Africa region. For example, trafficking of girls from the “triangle of shame” – Niger/Chad/Nigeria border to other WCA countries, North Africa region, further to the European Union and Gulf countries, and in particular sex trafficking in Italy, which is rampant (Awumbila, 2018). As the IOM (2020b) report indicates, this triangle is worth mentioning as it forms part of the growing Nigerian–Abidjan corridor in trafficking of underage girls within the WCA region. In fact, data shows that these girls and women are “a sizeable group trafficked for the purposes of sexual exploitation” (MMC, 2018). Moreover, INLTP annual report data from Tunisia indicates that in 2019, 63.7 per cent of VOTs were women and girls, the majority of whom were foreigners and irregular migrants. Further detailed analysis indicates that most victims were Ivorian women (72%) followed by other nationalities: Cameroon, Burkina Faso, Mali and Senegal at the rate of 1 to 2 per cent. The INLTP data is corroborated by IOM data from 2021 that indicates 88.17 per cent of VOTs were migrant women in Tunisia and 86 per cent came from Côte d’Ivoire.

Gender plays a significant role in the context of human smuggling and human trafficking of migrant women. The data reflects highly gendered patterns of migration and labour, and “broader patterns of human rights abuses that disproportionately affect women and girls, including domestic and sexual violence and discriminatory beliefs and practices around access to property, education, and even citizenship” (ILO, 2019a:2). The blurred realities of smuggling and trafficking also reflects gendered patterns – women are less prone to forced labour and abduction, but they are more susceptible to sex trafficking, or being sexually coerced to pay for the next segment of their trip, or at risk of being trafficked for the purpose of domestic labour (slave-like conditions) (MMC, 2017). The IOM report (2021a) indicates that under a mixed-migration lens, women migrants simultaneously belong or shift between categories (regular, irregular, remigration, refugees, IDPs and others) of migration highlighting the complex realities of women migrants. Almost half of women migrant workers in one IOM study in the region travelled alone without family members usually travelling “not only as a part of a family reunification strategy, but to seek better livelihood opportunities, as they were often the sole provider in their household [and] many of these women would be alone at their destination and often had to leave their children behind” (ibid.). Those travelling in a group travelled with their children.

Several international legal instruments have already incorporated and addressed the need to eliminate trafficking (at least sex trafficking of women and children) but do so without acknowledging the linkages to labour migration. Human trafficking thrives on the vulnerability of individuals and populations to exploitation – largely created and exacerbated by the contexts and situations of labour migration (from pathways to labour market insertion and regulation). Indeed, criminal enforcement efforts and human rights approaches remain focused on sex trafficking of women and children as the dominant paradigm. Further, the focus on the enslavement of women and children in the illegal sex industry by criminal organizations allows viewing human trafficking as an aberration rather than acknowledging the central role it plays in supporting and maintaining the global economy. Consequently, the current discourse continues to marginalize both the impact on and the role of women, children and migrant workers from developing nations in the global economy. Based on the analysis of existing legal and policy instruments in the six countries studied under this project, the next section presents an analysis of the key issues and challenges, as well as best practices and a set of recommendations to address them.

As discussed under the section on methods and analysis, the legal and policy analysis has been carried out based on the eight thematic areas as demonstrated in Figure 2.

Figure 2. Themes for legal and policy analysis



Source: Authors' own elaboration based on 2023 data from Gender + Migration Hub, n.d.

4.1.1. Skills and pathways

The overwhelming majority of African Union countries have ratified the African Charter on the Rights and Welfare of the Child (also referred to as the African Child Rights Treaty) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also referred to as Maputo Protocol or the African Women's Rights Treaty), obligating them to take special measures to ensure equal access to education for girls, raise the minimum age of marriage to 18, and take all appropriate measures to ensure that girls who become pregnant have the right to continue and complete their education (Human Rights Watch, 2022). The right to obtain gainful skills through education and training without any prejudice and discrimination is an integral part of enabling someone to exercise their human rights. The right to education for everyone is enshrined in the Universal Declaration of Human Rights, 1948.¹¹ The rights of women to education are inextricably linked not only with the human rights and dignity of women but also their socioeconomic empowerment. If women can enjoy their rights to education, they can participate in gainful economic activities in the origin countries. Further, having education enhances their chances of being employed in the formal sector with greater levels of regulation and rights protection.

The lower level of education among women migrant workers is directly linked with fewer economic opportunities and limited opportunities for regular migration. However, education policies are rarely linked with labour policies or with the policy instruments governing migration, smuggling or trafficking. This illustrates the need for women and women migrant workers to be able to ensure the attainment of skills and training with no gender-based discrimination, and for this, there must be coordination and coherence across labour, migration and other policy regimes. Women migrant workers who have obtained skills and training return home with experiences and innovative ideas upon the end of their contracts in the destination countries.

¹¹ Article 26 (1) states: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." (United Nations, 1948).

For women migrant workers, skills and pathways for migration are closely intertwined – and shaped by gender. BLAs between origin and destination countries create pathways to legal and regular labour migration, but at the same time, they tend to channel women migrants to gendered sectors such as domestic and care work. Ensuring standardized employment contracts within and between countries of origin and destination is a State obligation as indicated in Article (15)(3): “States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void” (United Nations, 1979). Even at the regional level, the MPFA and its Action Plan for 2018 to 2030 (African Union, 2018) provides an important policy guide to assist governments or regional bodies within the African Union in developing and implementing their own national and regional migration policies in accordance with their priorities and resources. Gender is featured in many of the recommended strategies of the MPFA. In terms of labour migration and education, the MPFA calls for the establishment of regular, transparent, comprehensive and gender-responsive labour migration policies, legislation and structures at national and regional levels. In January 2018, the African Union agreed to establish the African Continental Free Trade Area to facilitate the free flow of goods and services within Africa. Simultaneously, the African Union adopted a protocol supporting the free movement of persons between the countries of Africa. At the regional¹² and national¹³ levels, several texts have been adopted and multilateral¹⁴ and/or bilateral¹⁵ agreements have been established with partner countries. However, the pathways to labour migration for women and girls in the WCA region are complex and were left unaddressed.

Countries of origin

As an ECOWAS member State, Côte d'Ivoire adopted the 2015 Abidjan Declaration to end statelessness in the region (Bruni et al., 2017). Therefore, the citizens of other ECOWAS States can reside in the country for a period of 90 days without a residence permit, and those staying on a renewable six-month permit can obtain a work permit through either the Ministry of Labour, the Department of Aid and Assistance to Refugees and Stateless Persons or the Ministry of

¹² The Treaty of the Economic Community of West African States adopted in Lagos on 28 May 1975 (Articles 2 and 27); Protocol A/P1/5/79 on the Free Movement of Persons and Property, Right of Residence and Establishment; ECOWAS Gender and Migration Framework and Action Plan and others.

¹³ Law no. 71-10 and its implementing Decree no. 71-860 relating to the conditions of entry, stay and establishment of foreign nationals in Senegal; Law no. 61-10 of 7 March 1961, amended by Law no. 89-42 of 26 December 1989 relating to determination of Senegalese nationality; Law no. 81-77 of 10 December 1981 relating to the repression of acts of racial, ethnic or religious discrimination; Law no. 73-37 of 31 July 1973 on the Social Security Code; Law no. 75-50 of 3 April 1975 relating to social welfare institutions; Law no. 91-33 of 26 June 1991 relating to the transformation of the Social Security Fund into a social welfare institution; Law no. 2004-06 of 6 February 2004 on the Investment Code and its implementing decree; Law no. 2005-06 relating to the fight against trafficking in persons and similar practices and the protection of victims, adopted on 29 April 2005; Law no. 2005-02 criminalizing irregular migration from or to Senegal or passing through this country.

¹⁴ Le traité de l'Organisation pour l'Harmonisation en Afrique du Droit des Affaires de 1993, Le traité du 22 septembre 1993 relatif à la Conférence Interafricaine de la Prévoyance Sociale) [The treaty of the Organization for the Harmonization of Business Law in Africa of 1993, the treaty of 22 September 1993 relating to the Inter-African Conference on Social Welfare] and others.

¹⁵ Accord entre le Gouvernement de la République islamique de Mauritanie et le Gouvernement de la République du Sénégal, relatif à l'emploi et au séjour en Mauritanie des travailleurs, signé le 8 octobre 1972 à Nouakchott; L'Etat du Sénégal a aussi passé des accords avec le Royaume du Maroc le 27 mars 1964 et le Gabon le 30 mars 1979 dans le but d'assimiler les ressortissants de ces pays aux nationaux des pays d'immigration en ce qui concerne l'accès au salariat, aux professions libérales et aux emplois publics [Agreement between the Government of the Islamic Republic of Mauritania and the Government of the Republic of Senegal, relating to the employment and stay in Mauritania of workers, signed on 8 October 1972 in Nouakchott; the State of Senegal also entered into agreements with the Kingdom of Morocco on 27 March 1964 and Gabon on 30 March 1979 with the aim of assimilating the nationals of these countries to the nationals of the countries of immigration with regard to access to employment, liberal professions and public employment] and others.

Foreign Affairs (ICMPD and IOM, 2015). Additionally, the current national policy of Côte d'Ivoire on migration covers “entry and stay of foreigners and migrant workers, the criminalization of human trafficking and the protection of migrant worker VOTs, as well as irregular stay within the country” (Bruni et al., 2017:56). While Côte d'Ivoire follows a path to regularize migration, in many circumstances partly due to administrative issues, many migrant women and girls find themselves in an irregular status in the country. Although Côte d'Ivoire does not have well-established smuggling routes and networks (Bruni et al., 2017; see also ICMPD and IOM, 2015), smugglers play a significant role in facilitating the movement of migrants within the WCA region as logistics specialists (Bruni et al., 2017), implicating the country within smuggling networks. Smugglers provide fake documents to non-ECOWAS migrants wanting to enter the visa-free ECOWAS area and facilitate border crossings into Algeria and Libya via trucks through the Sahara and across on boat to Europe (ibid.). Further, the significant challenge for the Government of Côte d'Ivoire in addressing the smuggling and trafficking of migrant women and girls is limited data on the movement of migrants (emigration and immigration), stateless persons, IDPs and refugees (ICMPD and IOM, 2015).

In Senegal, the 1971 Law no. 71-10 still governs the “conditions of entry, stay, and establishment of foreigners” (Altai Consulting, 2015). Senegal belongs to a subregional legal framework establishing freedom of movement and residence for all nationals of ECOWAS member States. These regional agreements provide for safe and regular migration pathways. Indeed, Principle 6 of the ECOWAS Common Approach relates to gender mainstreaming of migration policies (ECOWAS Commission, 2008). It indicates that ECOWAS member States are committed to providing data disaggregated by gender on the profiles of migrants and ensuring the inclusion of the gender dimension in migration policies. The Constitution of Senegal, which establishes the primacy of international treaties over domestic legislation, however, the State party has not yet fully incorporated the Convention into national legislation and that discriminatory provisions against women still exist in national legislation, in particular concerning women's rights in the private sphere. In addition, there was little to no mention of migrant women (United Nations, 2022a).

Although the Sudan is also a member State of CEN-SAD, which is a regional economic unit to which all six countries in this report belong, it has yet to endorse a national migration policy. A national migration policy would be in accordance with Article 1 of the CEN-SAD Treaty in the fight to curb smuggling and eliminate trafficking. The absence of a formal migration policy has led to an inconsistent, ad hoc and impulsive approach to the migration issue of the country that significantly impacts the pathways of migration for migrant women and girls in the country, making them vulnerable to smuggling, and in the worst cases, trafficking. The discrepancy between the immigration-related laws (asylum, passports and immigration acts) do not allow the migration file to be managed within the framework of one body, in a vertical manner; that is, through layers of

government agencies¹⁶ – there is no mechanism for coordination between them. The law requires that a coordinating mechanism be set up to provide institutional coordination capacity of the Sudan to deliver a whole-of-government approach to migration management. But this is challenged by inefficacy of the HCM¹⁷ and the absence of the NCM to bring the range of government departments and units together around this issue. It is expected that NCM would be established on four pillars: (a) trafficking and smuggling of migrants; (b) labour migration; (c) migration and development; and (d) durable solutions for refugees. However, under the current framework, it would not deal with migration in an effective manner that simultaneously protects the national interests and respects the Sudan’s international obligations. The HCM was reactivated in February 2020 with the Minister of Cabinet Affairs as the new chair. Also, the National Committee for Combating Human Trafficking was also reactivated providing a framework for dealing with migration.

Mixed migration and counter-trafficking activities are coordinated through the Technical Working Group, which coordinates with the National Committee for Combating Human Trafficking and led by IOM and the UNHCR as co-chairs and with active participation by GIZ, Danish Red Cross/ Sudanese Red Crescent Society, UNDP, UNICEF and United Nations Population Fund and a seat for a representative for international NGOs (see Table 2). The gaps in policy and law limits the technical support that the United Nations agencies and international NGOs can provide on migration management in several aspects of migration governance.

In addition to the regional migration policy framework, the Sudan has bilateral agreements and memoranda of mutual understanding with Ethiopia, Saudi Arabia, South Sudan and other countries. It is safe to say that bilateral agreements on labour migration pays little, if no attention to gender issues. The bilateral agreements are based on facts of significant presence of nationals of these countries in the Sudan and vis-à-vis. For instance, Ethiopia is a major country of origin for irregular migrants in the Sudan and circular labour migrants in Gadaref State (a bordering State with Ethiopia and hosting refugees fleeing from recent violent conflict in Ethiopia). There is a subnational level of cross-border cooperation as in the example of Sudanese–Ethiopian border committee, which consists of representatives of Eastern States of the Sudan and neighbouring Ethiopian regions to address issues related to border security, combating TIP and facilitating trade. With consideration to these policy and institutional gaps, the Sudan has established legal and institutional frameworks for two categories of migrants: (a) Sudanese migrants abroad; and (b) refugees. These categories do not include migrants in the Sudan, and hence migrant women residing in the Sudan (regular or irregular) are not afforded protection within these institutional and legal frameworks for safe pathways to migration.

¹⁶ Rifaat Makkawi is a lawyer, human rights defender and the director and founder of People Legal Aid Centre (PLACE), one of the first legal aid centres in the Sudan.

¹⁷ HCM is decreed in 2006 as the highest migration policymaking in the Sudan. HCM was previously chaired by the vice president; it is currently chaired by the Minister of Cabinet Affairs.

Moreover, IGAD¹⁸ of which the Sudan is a member has developed the Migration Policy Framework since 2012 as a tool to guide and assist the IGAD member States to develop and implement migration policies. The Migration Policy Framework calls for recognition of gender as a cross-cutting issue in all facets of development stressing on the need for mainstreaming gender in migration policies. The Framework, under its strategic priority, trains the NCMs of member States on gender mainstreaming in migration policies to increase gender sensitivity of policymakers. As a member of the League of Arab States, the Sudan has engaged in the Arab Regional Consultative Process on Migration and Refugees Affairs, which was created in 2015 by the League of Arab States Secretariat as a regional migration policy dialogue platform (IOM, 2008). Some important and relevant Arab instruments include the following: (a) Arab Declaration on Family Rights, 1994; (b) Arab Charter on Human Rights, 2004; (c) Declaration on International Migration in the Arab Region, 2013; and (d) Regional Strategy on Protection of Arab Women: Peace and Security, 2014.

Saudi Arabia is a major destination country for Sudanese labourers. In the Labour Migration Policy Workshop held by the Ministry of Labour in December 2017 in close coordination with IOM, it was recommended to develop more BLAs with countries where there are many Sudanese, especially Saudi Arabia. The Sudan and Egypt regularized the movement of their citizens based on the Four Freedoms Agreement, which was introduced in 2004 and amended in 2008. Approximately 3 million Sudanese are in Egypt, and the Sudan is the biggest host country of refugees from South Sudan (UNHCR, 2020).

Countries of destination

Of the three countries of destination in focus, Morocco has the most progressive laws and policies regarding migration. Egypt has also shown leadership in managing migration within its borders and in the region with collective efforts to protect migrant workers (IOM, 2021b). On the other hand, Tunisia has an important legal framework that organizes the issue of labour migration, the fight against TIP and the fight against the smuggling of migrants. However, this framework lacks internal harmonization on certain issues, and it is not in line with certain texts of international human law and international labour law.

Egypt maintains efforts toward prevention of migrant smuggling and human trafficking through the implementation of the 2016–2021 National Strategy for Combating and Preventing Trafficking in Persons. It is committed to enhancing the prevention, protection and prosecution of the human trafficking and smuggling of migrants (UNICRI, 2016). However, the Strategy does not demonstrate how safe pathways to migration, particularly for women and girls, might be achieved. There are trainings, media campaigns and awareness-raising activities conducted on sex and labour trafficking. Indeed, Egypt has taken many efforts to enhance migration management and not just on TIP. Over the years, Egypt has developed a series of laws and regulations, established ministries and other institutions to govern international migration. The liberal emigration policy included

¹⁸ The IGAD region is membered by Djibouti, Ethiopia, Kenya, Somalia, South Sudan, the Sudan and Uganda (IGAD, n.d.b).

in the 1971 Constitution formed the basis of Law no. 111 of 1983 on Emigration and Egyptians' Welfare Abroad. Moreover, Egypt has initiated a group of governmental bodies with their mandate fully focusing on migration: (a) Ministry of State for Emigration and Egyptian Expatriates Affairs in 2015; (b) National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons in 2016; (c) Migration Data Analysis Unit in the Central Agency for Public Mobilization and Statistics in 2017; (d) Migration Affairs Inter-ministerial Committee in 2019; and (e) Migration Research Unit in Cairo University in 2021.

When it comes to the pathways for recruitment of migrant domestic worker (especially women migrant workers), Article 8 of ILO Convention C-189 stipulates that national laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies. However, field data indicates this is not always the case, and unethical recruitment practices exist in Egypt. The continuation, termination and renewal of the work contract of women migrant workers is principally linked to the work permit, which legally means that the renewal of the work permit for any reasons, whether justifiable and reasonable or not, gives the legal right to the employer to terminate the work contract. This situation always exposes women migrant workers to the risk of termination of their contract, especially the renewal of the work permit initially based on a letter issued from the employer as one of the key documents required to apply for a work permit for the first time and during renewal. This renders women migrant workers vulnerable and potential victims of different forms of human trafficking.

Morocco has ratified several international conventions on displacement and migration, starting with the 1951 Convention Relating to the Status of Refugees in 1956, and with greater frequency since 1993, with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, among others.¹⁹ In recent years, Morocco also signed the ILO Migrant Workers (Supplementary Provisions) Convention (no. 143) in 2016 and ILO Migration for Employment Convention (Revised), 1949 (no. 97) in 2019. The new Constitution of Morocco, adopted by referendum on 1 July 2011, has further strengthened the framework for the promotion of human rights and non-discrimination. The Constitution recognizes the supremacy of ratified international legal instruments over domestic legislation. Similarly, Morocco has undertaken efforts towards a humanitarian migration policy (after peaceful migration flows

¹⁹ The international documents include the following: (a) 1951 Convention Relating to the Status of Refugees; (b) International Convention on the Elimination of All Forms of Racial Discrimination; (c) International Covenant on Economic, Social and Cultural Rights; (d) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (e) Convention on the Elimination of All Forms of Discrimination against Women; (f) Convention on the Rights of the Child; (g) Convention on the Rights of Persons with Disabilities; (h) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; (i) ILO Migrant Workers (Supplementary Provisions) Convention (no. 143); and (j) ILO Migration for Employment Convention (Revised), 1949 (no. 97).

between 2008–2015) that integrates migrants into Moroccan society (Lahlou, 2018). Morocco dismantled 74 criminal networks and seized 1,900 boats in efforts to eliminate human trafficking and smuggling of migrants (ibid.; Maghreb Arabe Presse, 2018). Joint efforts between Morocco and Spain from 2007 onwards have seen a dramatic drop in irregular migrant flows by sea (UNODC, 2022). In addition, Morocco has continued its regularization campaign to provide legal status and documentation for migrant children vulnerable to child labour and commercial sexual exploitation (USDOL, 2019a). It has committed to regularize migration through granting legal status and protections for migrants, refugees, IDPs, asylum-seekers and trafficking victims. This strategy has helped decrease women migrant workers' vulnerability to trafficking. In an increased effort to prevent migrant smuggling and human trafficking, the Government formally established a national interministerial anti-trafficking committee led by the Ministry of Justice in 2019 with the mandate to “manage irregular migration, combat trafficking, and organize training sessions for security services on asylum, migration, and trafficking issues” (US Department of State, 2020c:359).

To strengthen the management of migration flows, in June 2013, Morocco signed a Mobility Partnership with the European Union, which has a relevant objective to “combat irregular immigration, networks involved in the trafficking and smuggling of human beings, and to promote an effective return and readmission policy” (UNICRI, 2016). Morocco does not require visas for citizens coming from six African countries (Algeria, Côte d'Ivoire, Gabon, the Niger, Senegal and Tunisia), while those coming from the Democratic Republic of the Congo, Guinea and Mali are only subject to an Electronic Travel Authorization, which can be obtained 96 hours before departure.

In Tunisia, women migrant workers take either of the three main pathways. The first is the regulated route with the help of intermediaries, which women especially from Côte d'Ivoire can access. It is because Ivorian people are exempted from obtaining a visa to enter Tunisia for a maximum period of three months. Many women do not hesitate to use intermediaries to migrate to Tunisia hoping to find a job easily or enter Europe. The second is the non-regulated route through which some women enter Tunisia to seek a better future and escape their difficult living conditions. But before reaching their final destination, they take different routes and pass through either Algeria or Libya where they suffer different forms of violence and exploitation. One key informant related the case of a woman who was held for several weeks by a group of youths in Libya who sexually exploited her on a daily basis, to the point that each time she thought it was the end of her life. The decision to emigrate is not a purely individual decision, but it is also a decision and a project of the family. One of the informants indicated that some migrant women with whom their organization intervenes have been well supported and encouraged by their families who have been involved and very active throughout the departure process. He stated: “The families want to see their children evolve and therefore they encourage them to seize any opportunity offered to them to leave for Tunisia or Morocco.”

Most women interviewed had experienced Tunisia either as a country of transit on the way to Libya and Europe or as their final destination. Since Ivorians do not require an entry visa (they need a work certificate if they want to work regularly as soon as they arrive and, after 90 days, a resident permit, failing which they will find themselves in an even more vulnerable situation and be forced to stay in the country if they are unable to pay the fine), they often travel first to Tunisia, to work and save to send money back home, then leave once they have saved enough. Some women use a middleperson to buy the plane ticket (about 500,000 CFA or roughly USD 823) and especially to have a first contact on arrival and find a job, usually as a domestic employee. They admit that they could buy the plane ticket themselves but say that they need a middleperson, as they know no one locally who could house them on arrival and help them find work. What many of them do not know is that they were placed under contract before leaving Côte d'Ivoire, that their passports will be confiscated, and that they will not be paid during the first five months in Tunisia. Their wages will be paid to the person who facilitated the trip and helped them find work, even though most of them thought that the middleperson had been paid with the money they had handed over in Côte d'Ivoire. What usually happens is that the new employers have paid a sum to the smugglers, and that is the debt that the migrant must reimburse to the new employer by working for free for five months. Those five months – during which the woman receives no money – are assessed according to what we were told, at about 650,000 CFA (about USD 1,120).

Large numbers of sub-Saharan migrant women have started arriving in Tunisia, fleeing conflict, war, GBV and poverty in their countries of origin. Moreover, migrant women in an irregular situation, particularly those coming from sub-Saharan Africa, have no chance of taking up formal jobs. Most women find themselves working in jobs that do not require any qualifications that no longer attract the Tunisian workforce, such as care and service sectors and domestic work. Also, Tunisian women do not want to be employed in sectors that involve working night shifts or any other sector that is deemed risky of sexual harassment from male colleagues, such as jobs in kitchens or bars (European Training Foundation, 2011). On the other hand, a significant fraction of the migrant women in question, even if they hold professional or university diplomas, are working as domestic workers or as service crew in cafés and restaurants. However, CSOs (such as Amiel and Beity) provide migrant women and VOTs with vocational training sessions that enable them to acquire the necessary skills to practise a trade beneficial to them whether they are repatriated or stay in Tunisia.

Most key informants considered that the Tunisian labour code provides for rigorous, even rigid procedures that do not favour migrant women's access to their rights and protection. The Code has not been revised to suit the new conditions of the Tunisian labour market and meet the country's new economic requirements. One of the interviewees noted: "In order to meet their labour needs, some employers in the service sector proceed to recruit immigrant women who have settled in Tunisia in a non-regulatory manner, without even worrying about their status or the nature of their residence in Tunisia, and without making any effort to provide them

with the minimum of protection.” The women encounter poor working conditions, poor living conditions, racism, language barriers, and fear and lack of safety in public places, and loss of identity documents and others.

In Tunisia, the policy and legal instruments that exist do not guarantee equal opportunities and access for both men and women to migrate for employment. The Tunisian Labour Code prohibited women from working at night except in exceptional circumstances related to urgent or force majeure in night work, as well as the protocol to the same convention in 1990 and the amendments to the Labour Code in 1996, the situation was changed so that night work may be permitted by the Ministry of Social Affairs. However, women are prohibited from working at night for at least 16 weeks before and after birth (UNDP, 2018). There are legal restrictions imposed on migrant women workers (such as duration, mobility and sector). Pathways were tied to sectors or categories of employment and skill level failing to ensure an equal and fair system through which women migrants could have easy and non-discriminatory access to work (ibid.). There were BLAs signed between countries of origin and destinations, but most channeled women in feminized sectors (such as domestic care work) where access to rights (such as collective bargaining and other labour rights), services (such as access to sexual and reproductive health care) and social security (such as access to employment insurance) are nebulous and often out of reach for women migrant workers. Further, even when such instruments made a specific reference to women migrants, they failed to address their gender-specific needs and challenges. No policy or legal systems were in place that mandated standard employment contracts between women migrants and the employers in all types of work, let alone in those working in informal employment.

4.1.2. Recruitment and pre-departure

Both the 2030 Agenda for Sustainable Development and the Global Compact for Migration identify fair and ethical recruitment practices and decent labour standards as crucial elements of migration regardless of legal status. The two elements provide protection of labour rights for migrant workers and work towards eliminating TIP. Migration for labour in Africa, particularly for women, is characterized by challenges in decent work, fair recruitment and exploitation through smuggling and trafficking. Women migrants make up a large proportion of the low-skilled migrant worker category (which constitute the majority of migrant workers globally) (ILO, 2017). As such, low-skilled women migrants bear higher migration costs in the form of fees paid to recruiters, have low bargaining power and are more vulnerable to labour exploitation and trafficking (ibid.). Recruitment agencies usually operate in the space where access to labour market, visas and general mobility is difficult (von Martius, 2017). The recruitment landscape is complex, comprised of and not limited to private sector agents, sub-agents, travel agencies, visa and consulting agencies, pre-departure training centres, medical screening centres, insurance companies, transport companies and smugglers, with most working in the informal economy and outside the law and regulatory frameworks (ibid.).

The recruitment process enables workers to enter into and exit from employment relationships with employers. As per the ILO General Principles and Operational Guidelines for Fair Recruitment, recruitment includes “the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable” (ILO, 2019b). The major indicators for the recruitment and pre-departure theme included fair recruitment and access to information including gender-sensitive information. The key theme and its sub-themes are anchored in the Convention on the Elimination of All Forms of Discrimination Against Women and its General Recommendations. Regarding fair recruitment, the Convention Article 26 provides the following legislative guidelines (United Nations Committee on the Elimination of Discrimination Against Women, 2008):

- “Para. 15: Workers in female-dominated sectors may not be paid for weekly days of rest or national holidays. Or, if they are heavily burdened by debt from recruitment fees, women migrant workers may not be able to leave abusive situations since they have no other way to repay those debts.
- Para. 24(b)(iii): Provide information on methods and procedures for migrating to work for women workers who wish to migrate independently of recruitment agencies;
- Para. 24(c)(i) States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employment agencies respect the rights of all women migrant workers. States parties should include in their legislation a comprehensive definition of irregular recruitment along with a provision on legal sanctions for breaches of the law by recruitment agencies (article 2 (e)); and
- Para. 24(c)(ii) States parties should also implement accreditation programmes to ensure good practices among recruitment agencies (article 2 (e))”.

Providing an empirical overview of recruitment of migrant workers from, within and to Africa is fraught with significant challenges with respect to the accuracy, reliability and comparability of labour migration statistics in Africa (African Union, 2020). *Abusive recruitment* refers to recruitment in which the position of vulnerability of the worker is abused. This vulnerability may be related to the following: (a) family situation; (b) irregular status situation; (c) lack of education (including language); (d) lack of information; (e) control of exploiters; (f) economic reasons; (g) false information about the law and attitude of authorities; (h) false information about successful migration; (i) personal situation; (j) psychological and emotional dependency; (k) relationship with authorities/irregular situation; (l) abuse of cultural/religious beliefs; (m) difficulties in the past; or (n) difficulty to organize the travel. When it comes to unethical recruitment practices, migrant women are more likely than men to be exposed to forced labour, sexual exploitation, forced prostitution and other kinds of violence. They are more likely to accept hazardous work conditions and low salaries that are many times below the mandated minimum wage.

Providing pre-departure information to migrant women is important as it provides access to information regarding rights and access to services in transit/destination countries, information about smuggling and trafficking and potential risk associated with unregulated unlawful recruiters and other informal agents that may facilitate migration. The Convention's General Recommendation no. 26 provides the following legislative guidelines (ibid.):

- Para. 24 (b)(i): "Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers' awareness of potential exploitation;
- Para. 24 (b)(ii): Provide a list of authentic, reliable recruitment agencies and create a unified information system on available jobs abroad;
- Para. 24 (b)(iv) Require recruitment agencies to participate in awareness-raising and training programmes and sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards the women;
- Para. 26(g): "States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees, such as criminal justice officers, border police, immigration authorities, border police and social service and health-care providers (article 3)."

General Recommendation no. 38 (para. 75)(d) provides specific guideline for information regarding smuggling and trafficking: "Provide accurate information to members of the public particularly targeting women and girls in situations of disadvantage, those living in remote and border areas and those en route or in a destination context, about their rights and the means and motivation to avoid human traffickers, including through evidence-informed, accessible communication campaigns based on a clear understanding of community risk factors and the barriers faced by community members in protecting themselves and others from trafficking, particularly in the context of migration, so they can identify and report potential traffickers and access service providers when they feel vulnerable to trafficking or exploitation" (United Nations Committee on the Elimination of All Forms of Discrimination against Women, 2020).

Countries of origin

In many cases, women migrant workers are forced to turn to smugglers since they cannot afford to pay fees for services offered by recruitment agencies. For example, most migrants use the services of smugglers to cross the Sudan and risk exploitation and trafficking. In the Sudan, PEAs facilitate the recruitment of foreign workers subject to the consent of the department in charge at the Ministry of Labour. Such agencies are required to obtain the verification of the employment contracts from the Ministry of Labour and complete the other verification formalities as necessary. The establishment of a licensing and monitoring framework for PEAs is currently underway. While PEAs may not charge recruitment fees, it should be specified in the

regulatory framework governing PEAs that migrant workers cannot be charged deployment and placement-related costs. Regarding Sudanese migrant workers, the Regulations of Operation for Employment and Recruitment Agencies of 2015 requires that the employment contracts of PEAs be presented to the Ministry of Labour for approval. The Ministry of Labour stated that it checks the following aspects of the employment contracts of Sudanese migrant workers who migrate abroad for work through employment agencies: (a) salary; (b) working hours, which should not be more than eight hours per day, for a maximum of six days per week; (c) accommodation, which needs to be included in the employment contract; (d) overtime pay; and (e) health insurance. The *Migrant Worker Guidelines for Employers* of IOM highlights the importance of ensuring that employment contracts are in the migrant's language and that migrants know the content of their contracts (IOM, 2021c). In 2019, the interagency Anti-trafficking Committee mandated to lead anti-trafficking prevention efforts held an anti-trafficking awareness event with 600 participants from youth and women's associations, religious leaders and traditional leaders as part of prevention against trafficking through safe and fair recruitment practices (US Department of State, n.d.a). Importantly, the three-year national action plan on TIP also focuses on creating livelihood opportunities in addition to others.

In Senegal, to guarantee equality between men and women, the Constitution of Senegal reaffirms the principle of prohibiting all forms of discrimination, in particular gender-based discrimination. The Constitution gives women the right of access to land, the right to less burdensome living conditions, access to health and welfare, the right to have their own assets in the same way as their husbands and the right to personal management of their property (OHCHR, 2019). However, equal employment opportunities between and equal pay for women and men in the occupational sphere are implemented on the ground. 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 (IOM, 2020b). 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 (ibid.). 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 predominantly through informal agencies, whose actions have also been tied to TIP, 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 (ibid.).

Senegal also has a national action plan for the eradication of GBV and the promotion of human rights. This multisectoral document, covering the period 2017–2021, is now being implemented and has led, among its initial results, to the formulation of regional action plans. Regarding equality and access to land, Article 15 of the Constitution clearly states the right of equal access to possession and ownership of land for both men and women. In accordance with State guidelines, the Ministry of National Education has launched – under the Programme for Quality, Equity and Transparency Improvements in Education and Training, and with the support of the Priority Solidarity Fund – a project to combat GBV in school settings, implemented following a multisectoral, interministerial and multilevel approach, both in and out of school. Article L.105 of the Employment Code has a clear provision of non-discrimination at work and equal pay for men and women stating that given that working conditions, vocational qualifications and productivity are equal, all workers regardless of their origin, gender, age or status should be paid equally (OHCHR, 2019). The Directorate for Gender Equity and Equality was created by Decree no. 2008-1045 of 15 September 2008 to provide the National Strategy for Gender Equity and Equality with an institutional framework to guide its implementation. The Directorate has been operational since 2009. At the institutional level, the Directorate falls under the jurisdiction of the Ministry of Women, Family, Gender and Child Protection. Clearly, as outlined, there remains a number of discriminatory provisions in the national legislation, such as the Family Code that legalizes polygamy stating that: “In the absence of an option at the time of marriage or afterwards, the man can have four wives concurrently” (OHCHR, 2015). Similarly, the Labour Code prohibits women from pursuing a variety of professions and night work in some workplaces since they can perform only “appropriate jobs” that refers to those that “are not beyond their strength” (Kane, 2019).

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 (IOM, 2020b).

Countries of destination

The Labour Code regulates the recruitment of Moroccan workers abroad (Articles 512–515) and the employment of migrant workers in Morocco (Articles 516–519), along with provisions common to both (Articles 520–521). Morocco has ratified seven of the eight ILO fundamental conventions. Additionally, it has ratified ILO Convention no. 18, as well as ILO Convention no. 97, excluding the provisions of Annexes I–III, with Convention no. 97 entering into force for Morocco on 14 June 2020. Morocco has also ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Morocco has not yet ratified Convention nos. 87, 88, 143, 189, nor the Protocol of 2014 to the Forced Labour Convention, 1930. Morocco reintegrated into the African Union in January 2017. It is a member of the Arab Maghreb Union and CEN-SAD (ILO, 2021).

In the absence of official recruitment channels, women tend to resort to unofficial means heightening the risks of being trafficked and/or smuggled while becoming irregular migrants in

the destination countries who are exposed to gender-based vulnerabilities, such as exploitation, sexual abuse, GBV and discrimination, human trafficking and forced prostitution (Kawar, 2004; Hennebry, 2017; Erez, 2009). Migrants are also more likely to become victims of human trafficking or violation of their rights of free mobility. The recruitment of Moroccan women in the agricultural industry in Spain, for instance, selects a category of docile female workers willing to work hard and return as soon as the contract ends (Hennebry, 2017).

The Egyptian law has no provisions regulating the recruitment of foreigners through recruiter agencies. Through the field review process, it is clear that the regulations and rules correspond only to Egyptians who are recruited to work inside Egypt or abroad. As such, although Egypt has a recruitment policy and regulatory framework, there are gaps in relation to international standards, especially in the area of migrants' recruitment process, and there are some specific categories of workers still left behind, such as women migrant workers, refugees and domestic workers, which lead to characterizing the recruitment process in respect of these categories as unethical. The field data established that the current legal system bears roots of unethical recruitment processes and the push factors for human trafficking through these unethical recruitment processes. In addition, there is strong link between recruitment fees and human trafficking and labour exploitation, as charging recruitment fees to women migrant workers is considered as an abusive employment practice resulting in forced labour exploitation (Institute for Human Rights and Business, 2013:3). Although Egyptian law prohibits recruitment fees, the current provisions do not completely ensure non-charging of worker fees of the recruitment process, especially in the cross-border recruitment process that might witness a relationship between two recruiters in the country of origin and/or the country of destination. The recruitment process is a fertile and attractive environment for human trafficking unless it is regulated through laws and subjected to the principles of governance.

According to the Ministry of Manpower of Egypt, there are 850 recruitment agencies registered and authorized to exercise the recruitment process (Egypt, Ministry of Manpower, n.d.a). There are 63 blacklisted companies (Egypt, Ministry of Manpower, n.d.b) and 341 companies subjected to abolition of its licences (Egypt, Ministry of Manpower, n.d.c). The reasons for cancellation of licences or being prohibited or blacklisted are unknown, but the numbers could refer and reflect a couple of interpretations. According to the provided numbers, the total of registered and authorized companies as private recruitment agencies are 1,254, of which 404 (32.21%) apparently did not comply with all applicable legislations and regulations. The Egyptian law has no provisions at all regulating the recruiting foreigners through recruiter agencies in addition to lack of specific regulation for domestic workers. In this regard, the Egyptian legal system in the context of ethical recruitment process needs to be reformed to ensure the rights of workers and avoid the potential abusive practices in the recruitment process, including a more comprehensive system through the inclusion of all categories of workers, in particular the most vulnerable groups, such as women migrant workers, refugees and domestic workers.

In Tunisia, the Labour Code of 1996 prohibits private labour recruiters from recruiting workers nationally. Workers are recruited nationally either through public employment offices or directly (Article 280). The recruitment of migrant workers cannot be carried out when there are Tunisian nationals who have the relevant skills for the job. Any employer who has recruited a migrant worker is required to register them within 48 hours in a special register in accordance with the model set by order of the minister responsible for employment. This register must be presented to labour inspection officials upon request (Article 261 new). PEAs, whether fee charging or not, were abolished under the Labour Code (Article 285). The Organisational Act on Preventing and Combating Trafficking in Persons, no. 2016-61 was adopted on 3 August 2016. In practice, the two predominant methods for recruiting migrant workers to work in Tunisia are indirect recruitment by organized networks of informal intermediaries or direct recruitment by unscrupulous employers, who are mainly interested in the possibility of applying wage levels below collective agreements and having a workforce whose informality provides much sought-after flexibility. In both cases, verbal contracts dominate the scene without any legal protection. In Tunisia, migrants must obtain an employment contract and a work permit to be legally eligible for any professional activity. The employment contract must be a written contract; this condition, which is not explicit, originates indirectly in the fixed duration of the migrant's employment contract as defined by Article 258 of the Labour Code visa requirements. Moreover, the difficulty for the migrant worker to access employment in Tunisia is not limited only to questions of form, but also extends to the substance of the employment contract. Indeed, according to the provisions of Articles 259 and 262 of the Labour Code, migrant workers are prohibited from any professional and territorial mobility. The difficulty to access work for migrants extends to their stability in work since they can only conclude a contract for a period not exceeding one year that can only be renewed once. Tunisian law establishes a close relationship between legal residence and work authorization. Article 7 of the Tunisian Labour Code states the provision of governing the employment of foreign workers as per the regulations pertaining to their entry, stay and work in Tunisia. Thus, Tunisian legislation establishes a close relationship between compliance with the conditions of stay and the exercise of an activity remunerated by migrants. As a result, the foreigner is likely to abandon the legal path and engage in an irregular employment relationship. Thus, to occupy a job in Tunisia, the migrant must reside there on a regular basis and the residence permit must bear the mention "Authorized to exercise salaried work in Tunisia" by the services of the Ministry of the Interior (Article 258 of the Labour Code). This interweaving of two different titles, namely the residence permit and the work visa, is a source of several problems that make it difficult for migrants to access work. The work visa is divided between two supports (the employment contract and the residence permit), two authorities (Ministry of Employment and Ministry of the Interior) and two procedures. The Ministry of the Interior is granted exorbitant powers to interfere in matters that naturally fall within the scope of the employment services. Thus, immigration policy absorbs that of employment, making it difficult for migrants to access work.

Since 2012, Tunisia has begun a series of reflections that led to a launch of the work of the five-year plan for economic and social development (2016–2020), in close collaboration with

national partners, representatives of civil society in Tunisia and abroad, and international partners with four key founding values. First, it stresses on respect for the rights and dignity of migrants and their family members, regardless of sex, age, origin or status, while being gender sensitive. Second, it emphasizes on building coordination and cooperation among all stakeholders on migration issues in accordance with international treaties and conventions ratified by Tunisia. Third, it commits to fight against trafficking in human beings, as well as all other forms of exploitation in accordance with the law. Fourth, it recognizes the transversality of the migration issue as a cross-cutting theme integrated into all national policies. The National Migration Strategy also has the primary objectives of strengthening governance in migration management and enhancing migrants' contributions to socioeconomic development at local, regional and national levels.

Promoting the regular migration of Tunisians to prevent irregular migration and protecting the rights of migrants, including asylum-seekers and refugees in Tunisia, also fall under the objectives of the National Migration Strategy. Tunisia's decidedly European migrant management approach means that Tunisia actively cooperates with the European Union on migration management and prevention of human trafficking and smuggling of migrants, such as the European Union–Tunisia Migration Agenda of 2012, the European Union–Tunisia Action Plan (2013–2017) and the Mobility Partnership of 2014 (UNICRI, 2016). Indeed, with the evolution of the number of irregular immigration attempts supported and organized by smugglers engaged in smuggling of migrants, Tunisia has revised the law on travel documents to criminalize assistance with mobility movements to and from Tunisia.

Regardless of these policies, laws and strategies, there are no gender-specific measures aimed towards addressing problems faced by women migrant workers. As a result, women who wish to emigrate or those who wish to settle in Tunisia are at a disadvantage compared to men. No special protection measures are guaranteed to Tunisian women who wish to work abroad through PEAs. Also, no special measures are provided for the reception on Tunisian territory of immigrant women who wish to work and settle in Tunisia, yet they may, because of their gender, suffer indirectly and implicitly, different forms of abuse in the workplace without being able to defend themselves.

The legal and policy instruments do not adequately ensure fair recruitment procedures and practices for women migrants, and non-discrimination based on sex and/or gender. No policy/law exists to oversee recruitment agencies and brokers, and they are not strictly regulated. The law/policy monitors employers, employment agencies and agents and to investigate complaints, alleged abuses and fraudulent practices by private recruiting agencies and employers against women migrant workers. There are no information on accredited recruitment agencies and employment available to the public. The law does not clearly mandate a system for provision, reporting and updating all relevant information to migrant workers related to their rights and migration. Women migrants provided gender-sensitive information regarding their rights and access to services during migration.

4.1.3. Labour and employment

This theme is anchored in the Convention on the Elimination of All Forms of Discrimination Against Women Article 11(a), which states: “The right to work as an inalienable right of all human beings” (OHCHR, n.d.). In the Convention, Article 11(b) states that women have “the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment” (ibid.). The labour rights and the rights to employment include the following; (a) access to employment and income; (b) collective bargaining; (c) payment and remittances; (d) workplace safety; and (e) decent work/labour rights. All the countries of origin (Côte d’Ivoire, Senegal and the Sudan) and destination (Egypt, Morocco and Tunisia) have ratified international conventions related to migration smuggling, trafficking and gender, and ILO labour and child labour conventions (refer to [Appendix J](#) for international conventions and [Appendix K](#) for child labour conventions). However, migrant workers in irregular conditions and those in the informal economy (such as domestic work) can face greater risks due to lack of legal protections and often isolated working conditions. Further, women migrant workers and trafficked women are more prone to violence driven by patriarchal, gendered norms and labour migration systems that do not fully protect their rights. Women working in the precarious sector lack the employment relationship that refers to a legal relationship between employee and employer, whereby the employee performs work for the employer under certain conditions in return for remuneration. This legal relationship is enshrined in the Convention’s Article 11(d): “The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work” (OHCHR, n.d.). The employment relationship serves as a vehicle for workers to gain access to the rights and benefits associated with employment while it also determines the employers’ rights and obligations towards their workers (ILO, 2006). The legal employment relationship also governs workplace safety for women migrants as stated in the Convention’s Article 11(f): “The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction” (OHCHR, n.d.).

Countries of origin

Even though Côte d’Ivoire, Senegal and the Sudan are member States of CEN-SAD and both Côte d’Ivoire and Senegal are member States of ECOWAS, labour and employment laws and policies are enacted nationally and not necessarily in relation to regional and/or bilateral migration agreements. For example, in Côte d’Ivoire, the Ivorian labour code regulations do not extend to the informal labour sector, which is where most migrant women and girls are employed, as such migrant women are exploited and trafficked in domestic labour, agriculture and mining within Côte d’Ivoire and abroad, including the exploitation of migrant girls in child labour and commercial sex trafficking (US Department of State, n.d.a). The greatest challenge in coordination efforts is the existing gaps in data collection, analysis and sharing across authorities and between regions (ibid.). As such, the primary focus in labour for the Government of Côte d’Ivoire is on the formal

labour sector, leaving the precarious sector (where migrant women and girls are exploited) largely unregulated (United Nations, 2017) and leaving migrant women and girls vulnerable to protection risks. Indeed, labour inspectors made few inspections in the sector where forced labour of migrant girls is prevalent, and there was no demonstration to reduce demand for commercial sex acts (US Department of State, 2020e and 2021f). The Government does operate a child protection and human rights hotline, but there were no demonstrated efforts toward prosecuting or preventing demand for commercial sex acts.

On the other hand, in Senegal, the law guarantees equal opportunities and access for men and women to migrate for employment including the prohibition of discrimination in matters of employment laid down by Article 25 of the Constitution which states: “Everyone has the right to work and to be employed. No one can be harmed in their work because of their origins, their gender, their opinions, their political choices, or their beliefs. The worker can join a trade union and defend his rights through trade union action” (Senegal, Government of, 2001). Also, Law no. 97-17 of 1 December 1997 provides that everyone is considered a worker within this law, regardless of sex and nationality, any person who undertook to put his professional activity, for remuneration, under the direction and authority of another person, natural or legal, public or private. This law has not been updated to reflect gender equality and still refers to the worker as male (“his”). Nonetheless, any discrimination between men and women in terms of employment, salary and taxes is prohibited, and unlike the old 1961 code, the new 1997 code prohibits all forms of discrimination and makes no distinction between Senegalese workers and migrant workers in terms of wages. Article 1 obliges the State to ensure equality of opportunity and treatment for all workers without distinction as to origin, race, sex and religion. Article L105 provides that all workers should be paid equal for equal working conditions, professional qualification and performance, regardless of their origin, sex, age and status.

Within the three countries, the Sudan provides the weakest labour and employment regulations for migrant women and girls. The Sudan’s Domestic Workers Act of 2008 provides the framework for “employing and registering domestic workers with limited labour rights and protections” (US Department of State, 2020a), but it was not implemented, and there is no data reporting the registration or protection of workers. This labour and employment gap is detrimental for migrant women and girls regarding safe working conditions. While the outdated employment policy and absence of labour migration policy is a main gap, there are ongoing efforts to support the Ministry of Labour and Administrative Reform to develop labour migration policy along with a national employment policy. It is important to consider that the existing national legal and policy instruments pertaining to labour and employment are partially compliant with international normative documents and implemented with a limited scope, but they are still not gender-responsive.

Countries of destination

Like in the countries of origin, there are gaps in labour laws and employment policies in the destination countries, although all the six countries are member States of CEN-SAD and two are member States of ECOWAS. In Egypt, labour laws do not extend to the domestic sector, leaving women migrant workers at protection risks relating greater vulnerability to trafficking and forced labour in domestic servitude. This is similar to Côte d'Ivoire as aforementioned where the informal labour sector is not regulated. This contrasts with the Moroccan case where there is continued effort to protect migrant women domestic workers through the implementation of Law no. 19.12, which was adopted in October 2018. The law provides domestic workers with the right to have an employment contract and employers should register their workers with the National Social Security Fund (National Human Rights Council of Morocco, 2013). Domestic workers with contracts are entitled to all National Social Security Fund benefits, including medical insurance and family allowances, one day of rest per week and a paid leave after six months of continuous work. Also, the law limits 40 working hours per week for minors aged 16–18 and 48 hours for adults and enforces a minimum net salary of 13.46 Moroccan dirhams per hour (USD 1.45), amounting to at least 1,548 Moroccan dirhams per month (USD 167.3) (ibid.). Although the law has a number of provisions in alignment with ILO Convention no. 189, it has not been fully implemented on the ground.

The Egyptian Constitution emphasizes prohibition of slavery and forced exploitation for human beings, sex trade and other forms of human trafficking all shall be criminalized by law (Article 89, Egypt, Government of, 2014)). Indeed, when it comes to labour and employment, the Egyptian Constitution Article (1) defines the worker as every natural person working for a wage for the employer and under their management and supervision. Further, Articles (1/A and 1/B) define both workers and employers without limitation to nationality or gender, which means that foreign workers, including women migrant workers, fall within this definition under the Egyptian labour law. Indeed, Article 88 of the Labour Law guarantees that all provisions that regulate the employment of workers will apply to working women without any discrimination.

The Minister of Manpower issued a ministerial decree in concern of “Determine the jobs in which women may not be employed” (ILO, 2003). Article (1) of the decree listed 30 types of works that women shall not be employed in; for example, bars, gambling clubs, furnished apartments, hostels and work in night clubs and dancing halls except they are adult artists and dancers and others (ibid.). While this is meant to protect women, these are the major areas of irregular and unregulated labour sectors where migrant women workers are employed, particularly those who are undocumented, leaving them at risk for forced labour and trafficking since these sectors are not subject to supervision of the Ministry of Tourism. However, the labour law does require that the employer under these circumstances guarantees the protection, care, transportation and security for women working in these sectors.

Regarding domestic labour, Egyptian law from 1944 (and even under the revisions in 2003), frequently excludes the regulation of this sector. The law airs on the side of protecting the privacy of employers and the sanctity of their private residence, and therefore labour inspectors rarely enter private residences to ensure the application of labour law. This means that labour law is not applicable to domestic workers according to Article (3); as a result, the women migrant workers are entirely out of any legal protection that is afforded to other domestic women workers.

Morocco's legal framework does not adequately protect unaccompanied migrant girls forced into domestic labour and commercial sexual exploitation because labour inspectors are unable to inspect private homes where most children (in particular girls) work as forced domestic servants. The labour inspectorate capacity to enforce child labour laws is hampered by limited resources including limited jurisdiction for inspectors to assess penalties (USDOL, 2019a). Reports indicate that both Moroccan girls as young as six years and girls from Cameroon, Côte d'Ivoire, the Democratic Republic of the Congo, Nigeria and Senegal are all recruited for domestic labour where they are subject to exploitation, abuse and violence including no access to educational opportunities (ibid.). In particular, unaccompanied migrant girls from sub-Saharan Africa face significant barriers such as the need for birth certificates to register for school and language barriers, leaving them vulnerable to child labour and commercial sexual exploitation.

In Tunisia, there are four main legal documents that deal with migration. First, the Labour Code 1966 (revised 1996) where Articles 258-2 state that foreigners who want to be involved in any kind of paid work in Tunisia must possess an employment contract and a residence card that demonstrates that they are authorized to work in Tunisia on a salaried basis. This Code also stipulates that the recruitment of foreigners cannot be carried out when Tunisian skills in the specialties concerned by the recruitment do not exist. It is not permitted to recruit or retain a foreign worker in a profession or governorate not indicated in the employment contract. Second, Decree no. 68-198 of 22 June 1968 regulates the entry and stay of foreigners in Tunisia including those who want to exercise employment. This text organizes the residence of people who wish to settle in Tunisia temporarily or permanently and the conditions for the migrant worker to have access to a residence card. Third, Decree no. 2010-2948 of 9 November 2010 sets out the conditions and procedures for granting authorization for private institutions to carry out placement activities abroad. Fourth, the 2016 Investment Code also allows certain companies that make large investments in well-defined sectors to employ up to 30 per cent of its executives in foreign labour.

According to the Tunisian Labour Code, migrant workers in a regular situation employed in a regulatory manner and local workers have the same rights and should be treated on an equal footing. However, migrant workers in an irregular situation cannot aspire to equal treatment with national workers, which opens the way to different forms of exploitation. Tunisia's national legislation, despite its importance in ensuring the minimum level of protection, lacks some conformity with international labour law. According to one of the interviewees, "Tunisia should make more effort to align itself with international labour law, particularly with regard to the employment and protection of migrant workers in informal employment." Tunisia is also the only country in the Maghreb region that has not ratified the International Convention on the Rights of All Migrant Workers and Members of Their Families, nor the ILO Convention no. 143. In this context, it remains difficult to ensure comprehensive protection for migrant workers and their families. The protection of migrant women and girls in Tunisia – regarding employment and income, collective bargaining, payment and remittances, workplace safety and decent work/labour rights – is almost non-existent. For instance, irregular migrant women and unaccompanied migrant girls do not have access to residency permits, leaving them in precarious working conditions, such as forced labour, sexual exploitation and physical violence.

Nonetheless, data shows that recognized and identified VOTs have several rights throughout the process of their detection, identification, care and assistance. Key informants who participated in the study also agree on the need to revise the Labour Code to be consistent with the Investment Code and in line with the protection of trafficked persons. One of the interviewees also thinks that it is urgent to revise the law of 1968 organizing the entry and residence of foreigners in Tunisia: "It is in 2022, but we still operate with a law that dates from 1968. In the meantime, many things have evolved, everything has changed, laws must adapt." Indeed, informants representing CSOs believe that the legislation organizing labour relations in Tunisia, particularly that relating to the employment of immigrants in Tunisia, remains non-compliant with international human rights law. Migrant workers in informal employment may be deported or detained by police officers since their presence on Tunisian territory is irregular. As a result, immigrant workers find themselves in several situations subject to exploitation in the workplace. One of the research participants states: "What human rights are we talking about when we see immigrant workers working hard and without leave, and if they get sick or if they are victims of an accident at work, they have no protection?"

Pertaining to child labour laws in relation to migrant girls, Tunisia has made moderate advancement to combat and eliminate child labour and became the "45th state to accede to the Council of Europe's Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, with the Convention entering into force February 1, 2020" (USDOL, 2019b:1174). This would positively impact unaccompanied migrant girls and address gaps in labour and employment

enforcement. As it stands, “labour law enforcement mechanisms do not exist to enforce the minimum age protections for migrant girls on inhabited premises, such as private homes, without permission of the property owner or a court order” (USDOL, 2019b:1175), posing a significant challenge and placing the girls in situations of exploitation. Indeed, the Government does not provide sufficient initiatives to address the internal child domestic servitude problem or make efforts to reduce the demand for commercial sex acts or child sex tourism (US Department of State, 2020d and 2021e).

4.1.4. Social protection

The Convention on the Elimination of All Forms of Discrimination Against Women Article 11(e) states that all workers should be guaranteed “the right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave” (United Nations, 1979). Social protection includes income security provisions and maternity/paternity benefits including “maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances” (Article 11(2)(b) in *ibid.*). However, women migrant workers are often excluded from social protection coverage. In most cases, they are denied access or have limited access to social protection, since they are concentrated in the precarized sectors in the region owing to gendered perceptions of employment, as well as the lack of gainful skills. In some cases, women migrant workers are deprived of social protection based on their immigration status or on the grounds of insufficient duration of their residency in the destination countries. In addition, the lack of bilateral or multilateral agreements may prevent migrant workers from maintaining their earned benefits and benefits during acquisition. This is particularly important in the case of long-term benefits (invalidity, old-age and survivor’s) where qualifying periods may be considerable. They face legal and practical challenges to access social protection. This has socioeconomic repercussions not only for migrants but for all of society, including adverse impact on income security, poverty, inequality and on social integration.

Countries of origin

In Senegal, the Government has various social protection provisions for migrants particularly relating to benefits to workers and families, childbirth benefits, maternity allowances and others. For example, Decree 2012-832 of 7 May 2012 on the organization and operation of company or intercompany IPMs, obliges employers within the meaning of Article L3 of the Labour Code to create IPMs for the benefit of workers and their families. Article 2 of Ministerial Decree no. 2159/MFPTRI/DGTSS/DPS of 18 February 2013 setting the standard models of statutes and internal regulations for IPMs, provides for several types of services, including childbirth. Article 18 of the Family Security Code of Senegal provides that: “The right to maternity allowances is open to any spouse of a worker, to any unmarried salaried woman and to any salaried woman whose husband has no paid professional activity which gives birth, under medical supervision, to a child

born viable and registered in the civil status registers” (Senegal, Government of, 1997). These legal provisions regulate both Senegalese nationals and migrants. However, they do not extend to irregular migrants, even though Senegal is party to various bilateral migration and labour agreements (refer to [Appendix L](#)).

In the Sudan, migrant women and girls, and in particular migrant worker VOTs, are not provided with temporary or permanent residence permits, which are necessary for migrant women and girls who have been trafficked. Since TIP is often confused with smuggling of migrants, there is no disaggregation of data between trafficking, smuggling and kidnapping for ransom, which impedes identifying migrant women and girls who have been smuggled and are now vulnerable to trafficking. For instance, a significant number of the female victims identified between 2018 and 2019 were individuals who purchased the services of smugglers but were not trafficked or exploited in forced labour or sex work. In the worst cases, this confusion often divests migrant women and girls who are VOTs in the Sudan from protection. Data indicates that the confusion is caused by three main factors:

- Lack of unified and migrant-specific legal frameworks or provisions to deal with smuggling of migrants. Currently, the smuggling is handled through different acts: (a) Passports and Immigration Act of 2015; (b) Combating Smuggling and Kidnapping of Persons Act of Kassala State of 2010; and (c) Combating Kidnapping and Smuggling of Persons Act of El-Gadaref State of 2016.
- Insufficient training for criminal justice actors. For example, Article 29 of the Passports and Immigration Act of 2015 is misinterpreted in ways that divest VOTs from protection. Nevertheless, some good practices in Kassala and Eastern Sudan indicate that criminal justice actors are following legal provisions to deal with smuggled persons as potential VOTs until the opposite is proven.
- Smuggling of migrants often occurs along the same routes for trafficking, which leaves migrant women and girls vulnerable to trafficking as in cases of sexual exploitation, forced labour and servitude, or detaining smuggled persons for extra fees to be transferred to smugglers to resume the journey. Also, research has shown that police and border officials are complicit with trafficking and profited from it, and specifically targeted and exploited women migrants.

Amending the National Act for Combating Trafficking in Persons (also referred to as the 2014 National Trafficking Act) to address this gap would enable the protection of victims by changing victims’ identity or relocating witnesses who face risks. Nonetheless, a recent amendment to the 2014 National Trafficking Act significantly addressed the protection gaps of child VOTs. Before amendments, the only reference for children in the Act is related to aggravating factors, which negatively impacted migrant girls who were in situations of forced domestic labour and vulnerable to commercial sexual exploitation.

The Ministry of Employment and Social Protection (Ministère de l'Emploi de la Protection Sociale) is responsible for combating child labour with the support of the Interministerial Committee against Trafficking, Exploitation and Child Labour (Comité interministériel de lutte contre la traite, l'exploitation et le travail des enfants). In line with the National Strategy and National Plan in Combating Trafficking in Persons, the National Committee against the Trafficking of Persons is in charge of implementing the aforementioned laws.

Countries of destination

In Tunisia, migrant workers in informal employment who are mostly women are deprived of any social protection and may be deported or detained by police officers since their presence on Tunisian territory is irregular. According to the data collected, the various key informants, particularly those representing CSOs, believe that the legislation organizing labour relations in Tunisia, particularly that relating to the employment of immigrants in Tunisia, remains non-compliant with international human rights law. As one of the informants state: "What human rights are we talking about when we see immigrant workers working hard and without leave, and if they get sick or if they are victims of an accident at work, they have no protection." Irregular immigrants can only leave Tunisian territory if they pay a financial amount of 20 dinars for each week of non-regulatory residence in Tunisian territory; this is capped at 3,000 dinars (the equivalent of 1,000 euros). They can only be exempted from this amount if they have been victims of confirmed human trafficking and at the request of the INLTP. However, obtaining the INLTP request exemption takes a very long time, during which the victims remain stranded in Tunisia with no social protection.

Regarding the protection of migrant women, interview data indicated that Tunisia had not ratified ILO International Convention no. 183 on Maternity Protection and ILO Domestic Work Convention no. 189, although there is now a law on the protection of domestic workers. Thus, women, whether Tunisian or immigrant, do not have access to the protection mechanisms provided for by international standards, as highlighted by one of the interviewees: "Despite the efforts of associations that defend women's human rights, the convention remains unratified by the Government of Tunisia." The conventions can be of considerable contribution to the protection of immigrant women in an irregular situation in Tunisia and who occupy informal jobs, since its first article stipulates that it applies to all women employed, including women who are employed in the context of atypical forms of dependent work.

While Tunisia has been a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women since 1985, the law remains unclear concerning gender dimensions with regard to irregular immigrant women whose experiences of vulnerability are harsher than men. This especially impacts pregnant migrant women or daughters of migrant women, or a single woman accompanied by a baby. There is no law dedicating special measures to provide them with more advantageous social protection as one of the interview participants indicated: "Tunisian laws do not protect immigrant women who are doubly penalized; first [they are] penalized because they are women, then because they are immigrants in an irregular situation."

Nonetheless, the INLTP works in partnership with the General Committee for Social Promotion to improve the care of trafficked women and girls. It is within this framework that the INLTP signed a cooperation agreement with the Ministry of Social Affairs on 18 January 2019, which aims to support cooperation and coordination in the fight against TIP, the information of victims and the prevention of forms of exploitation to which they may be exposed, especially children and women. This agreement is committed to ensure the provision of social support services to women migrant worker VOTs, such as information, psychological and social support services and accommodation services according to available capacity, as well as developing programmes to protect vulnerable groups, strengthen the capacity of social workers and labour inspectors, and contribute to the psychological rehabilitation of victims and their insertion into Tunisian social life. Apart from the cooperation between the INLTP and CSOs, this study observed that there is no real partnership between CSOs and other government agencies responsible for migration issues on the subject of labour migration, trafficking in women and smuggling of migrants. There are no parental/maternity benefits/protections, and those that exist do not apply to all categories of non-nationals including migrants, asylum-seekers, irregular migrants and trafficked or exploited persons, irrespective of their residence status or formal vulnerability determination. There are no legal and policy provisions in place that ensure income security for women migrants, such as pension, unemployment insurance, paid sick leave, disability insurance, workplace injury/accidents.

Egypt has a long partnership relationship with IOM, and IOM Egypt has provided assistance and protection to both regular and irregular migrants in vulnerable situations (IOM, 2021b). This includes gender-responsive budgeting to achieve gender equality through the Monitoring and Evaluation system.

In Morocco, migrant women and girls who are VOTs can benefit from their regularization of migration status (provision of residency permits) by accessing reintegration assistance, education and vocational training, psychosocial services and legal aid (US Department of State, n.d.b). This contrasts with countries of origin such as the Sudan, which does not provide this specific benefit to migrant worker VOTs.

4.1.5. Access to services

The access to services include the following: (a) health care; (b) psychosocial services; (c) education; (d) housing; (e) participation/consultation with migrant women; (f) cultural and social services; (g) gender-specific services/policies; (h) gender-sensitive training; and (i) privacy and confidentiality of information through, for example, firewalls. The Convention on the Elimination of All Forms of Discrimination Against Women General Recommendation no. 38(VII)(A)(v)(80) obligates States to “strengthen the health systems’ capacities for early identification and intervention for women and girls, irrespective of migration status, at risk of trafficking and for trafficking victims, ensuring confidential and safe access to free healthcare, based on trauma-informed and survivor-centered care as informed by international standards” (United Nations Committee on the Elimination

of All Forms of Discrimination against Women, 2020), while General Recommendation no. 38 (VII)(A)(v)(82) requires States to “assess the impact of the national legal and policy framework, particularly with respect to the application of immigration, asylum, labour, health, education and social protection frameworks on trafficking victims, to ensure they do not adversely affect victim identification, assistance, protection and social inclusion/reintegration, and do not increase women and girls’ vulnerability to trafficking, re-trafficking, detention, forced return or other forms of harm” (ibid.). Lack of access to safe pathways to migration and formal labour market/employment means most women and girls in the countries of origin are likely to opt for unsafe routes and channels of migration, such as the use of smugglers and tendency to become vulnerable to trafficking networks while in the countries of destination, they end up in the precarious sector prone to abuse and exploitation. The result is that migrant women do not have access to social protection. In particular, women with irregular migration status are typically excluded entirely from access to maternity protection and from all but emergency health care.

When it comes to psychosocial services, General Recommendation no. 38(VII)(B)(i)(77) requires that it is the obligation of the State to “create national guidelines which are updated on a regular basis for early identification, provision of services and referral of victims or presumed victims that are benchmarked against international standards, integrating a rights-based, victim-centred, age- and gender-sensitive and trauma-informed approach and which is uniformly applicable at international borders and throughout the territory of the State party by all relevant state and non-state actors” (United Nations Committee on the Elimination of All Forms of Discrimination against Women, 2020). The MPFA states gender and migration “as one of its eleven cross-cutting issues” (African Union, 2018). It recommends the adoption of ten different strategies, such as the following: (a) calling for member States to support associations and networks of migrant women, and enhancing their voices in national and regional policy dialogue processes; (b) calling for member States to strengthen responses to particular needs of migrant women and girls, particularly ensuring that their health needs, labour rights and human rights are respected; and (c) integrating gender perspectives in all national and regional migration management policies, strategies and programmes. In the six countries, psychosocial services are provided to women migrants who are VOTs, both undocumented and documented. While the Convention on the Elimination of All Forms of Discrimination Against Women Article 14(2)(h) provides that States ensure women “enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications” (United Nations, 1979), many women migrants (across all six countries) do not have access to adequate and safe housing, and it is not clearly outlined in labour or migration law.

Countries of origin

The Convention on the Elimination of All Forms of Discrimination Against Women review of Côte d’Ivoire highlights the importance of enhancing efforts to counter GBV and developing better reproductive services for all women. The Government of Côte d’Ivoire has made efforts towards eliminating trafficking and smuggling of migrant women by identifying and referring

to care, significantly more potential trafficking victims, including 189 forced labour victims in the cocoa sector in 2019, and expanding law enforcement and victim protection, support and coordination with the Government of Tunisia due to the high number of trafficking victims from Côte d'Ivoire identified in Tunisia (US Department of State, 2020e and 2021f). The Government of Côte d'Ivoire provides shelter, medical care and psychosocial support to some of the victims. It also uses "orphanages or its 36 special education centres to shelter women and child trafficking victims" (US Department of State, 2020e:171). The Government does provide shelter for child VOTs at the government-run shelter in Soubre, which in 2019–2020 assisted 107 children (65 girls and 42 boys) (US Department of State, 2020e and 2021f). However, shelter services for migrant women victims remain inadequate. When the Government refers victims to NGOs, it provides the NGOs with in-kind support (such as clothing, food and hygiene kits); nevertheless, funding and most victim care services and social services support for migrant women and girls is provided by NGOs. Funding remains severely inadequate for protection programmes and services geared towards women migrant workers who are VOTs along the WCA–North Africa migration corridors. For example, the unit responsible for investigating prostitution and sex trafficking, the Brigade Mondaine, is constrained to Abidjan and a few precincts due to limited resources (ibid.), leaving many women migrating through the rural areas at risk and with little to no protection.

In 2019, Côte d'Ivoire signed an agreement with Burkina Faso to improve law enforcement and victim protection. That same year, the Government also signed a tripartite agreement on transnational child trafficking with Togo and Benin. Children, including orphan street children, from Benin, Burkina Faso and Togo are primarily trafficked and exploited in forced labour in artisanal gold mines.

As a country of origin, Senegal does offer a progressive constitution regarding freedoms for migrant women and girls. Article 8 of Senegal's Constitution guarantees individual freedoms to any person located in Senegalese territory regardless of their nationality. These freedoms cannot be violated and any voluntary obstacle to their exercise is punishable by law. Therefore, migrant women and girls have access to social and cultural services and the women can, through freedom of association, opinion and expression, exercise their cultural freedom. Also, migrant women and girls have the right to social services and family security. However, there is no clear distinction placed between migrant women and girls regarding legal status (regular and irregular migration). This is a gap that needs to be addressed because it is directly linked to pathways to migration for migrant women and girls.

While the Sudan has a system in place to identify and protect migrant women and girls who become VOTs, the structure of the 2014 National Trafficking Act does not adequately cover areas related to the identification of victims, protection, immigration and return. In fact, it is not consistent with international law frameworks, and in particular substantive parts of the Palermo Protocol (US Department of State, 2021a; Yahya, 2020), and it lacks adequate procedural provisions. The 2014 National Trafficking Act incorporates a set of interpretations that are very limited compared to definitions contained in the Palermo Protocol.

The 2014 National Trafficking Act contains protection-related provisions in Articles 25, 26, 27 and 28, such as exemption from judicial fees, confidentiality of information and assistance programmes for the VOTs. Nevertheless, a closer examination of these articles displays the protection gaps: the 2014 National Trafficking Act has stated that VOTs should receive assistance programmes but did not clearly state what kind of assistance programmes, and it did not assign a specific agency to deliver the assistance programmes. This gap rendered the rights of migrant women and girls who are VOTs subject to varying interpretations and practices. For example, in September 2019, there was a decrease in overall protection efforts and identification of fewer victims.

Family reunification is one area that directly impacts women migrants, who are often primary caregivers for women and elderly or ill family members. There is a lack of adequate and detailed regulations to facilitate family reunification and the laws and policy frameworks that exist do not meet international and regional human rights standards. For example, the Passports and Immigration Act of 1994 is the main immigration act, and it does not appear to recognize foreign national rights to family reunification since there are no provisions that guarantee family members are welcome in the Sudan and under what conditions. This is further complicated by the Personal Matters Act of 1991 that governs personal status laws, which is gender blind and does not pay attention to family reunification from a migration perspective. The result is migrant women and their families are not afforded protection under these laws.

While the 2014 National Trafficking Act is the Sudan's first law to deal specifically with human trafficking, it lacks an explanatory memorandum, which has affected several practices that vary from a State to another and from a case to another, who does what and when is unclear and the only relatively advanced experience and exception is the referral system followed in Kassala state. For example, in Kassala state, there is a safe house funded by the UNHCR and run by the Sudanese Red Crescent Society. Referrals are managed by IOM through its Migration Resource and Response Centre in the state of Khartoum. Also, there are migrant communities that run safe houses in Khartoum especially Eritreans and Ethiopians, usually coordinated with the counter-trafficking unit led by the national police. The referral to the safe house is initiated either by the special counter-trafficking prosecutor or the UNHCR. Referral is not only confined to VOTs; UNHCR refers cases from the refugee camps that need special medical care, which is available only in the capital of the State. The safe house has a regulation – described by the former special counter-trafficking prosecutor in Kassala state – that is more like a general principle for treatment with one or two articles related to referral rather than regulation for safe houses.

Countries of destination

In order for services to be gender-responsive and address gender-based experiences of migration, gender-responsive training is particularly important to enable full access to services. Some countries have implemented such training; for example, gender-sensitivity training of social workers in Egypt received workshop training on human trafficking with a focus on women and children (IOM,

2019d), while other sessions were held on countering trafficking for prosecutors (IOM, 2019e). The Government of Tunisia has made important advances, including launching an online platform to provide training on how to combat and prevent human trafficking by the National Authority in February 2020, which has some information and capacity-building resources on gender. The Government conducts numerous anti-trafficking public awareness and information campaigns as well, with most focusing on women as VOTs. In addition, most countries of destination have functioning national referral systems for migrant women and girls. For example, the Government of Egypt has a national referral mechanism that consists of various ministries and actors involved in combating human trafficking. However, it demonstrates weak victim identification and protection efforts and lacks a country-wide referral system, as there are no reports on the Government proactively identifying or referring to protection services or social services for any adult trafficking victims; in fact, there were no adult victims identified on allegations of forced labour and sex trafficking in 2019 (US Department of State, 2020b and 2021b). This falls short of the international convention (Protocol of 2014 to the Forced Labour Convention (ILO, 2014)) that places obligations on countries to provide victims protection and access to appropriate and effective remedies such as compensation, and to sanction the perpetrators of forced or compulsory labour.

Usually, the authorities wait on NGOs to identify victims or self-reporting by victims. Nevertheless, the national referral mechanism has resulted in significant developments, such as a shelter for Egyptian women and children who are VOTs and a designation of a public hospital to provide the women with health care (IOM, 2014). Conversely, these protections, provisions and services do not extend to migrant women. There are no shelters or other essential rehabilitative services dedicated to the needs of migrant women and girls, particularly those who become VOTs or smuggled women migrant workers. Additionally, the Government does not provide in-kind support or funding to CSOs that provide essential victim care (US Department of State, 2020b and 2021b).

The Convention on the Elimination of All Forms of Discrimination Against Women Committee review recommends that Egypt allocate sufficient resources to “expand and increase the number of State-run shelters for women victims of gender-based violence and ensure that such victims receive counselling, rehabilitation and support services for their reintegration into society, particularly those belonging to disadvantaged groups of women, such as women in rural and remote areas, asylum-seeking and refugee women, women with disabilities, migrant women and women domestic workers” (United Nations, 2021a). It also recommends that the State “accelerate the adoption of the draft law on regulating migrant workers to ensure the same level of protection and benefits for them as for other workers, to protect them from abuse and violence, and to develop and implement measures for labour inspection, enforcement and penalties. The Committee also recommends that the State party ratify the ILO Domestic Workers Convention, 2011 (No. 189)” (ibid.).

When it comes to disadvantaged groups of women, the Committee is concerned “about reports that women with disabilities, women refugees, asylum-seeking women and women migrant workers continue to experience multiple and intersecting forms of discrimination”. The Committee, in regard to refugees, asylum-seeking women and migrant workers, recommends that the Government of Egypt undertake the following (ibid.):

- (a) “Set a clear time frame for the processes of issuing and renewing official documentation and residence permits for women refugees, asylum-seeking women and women migrant workers;
- (b) Adopt measures to ensure the access of asylum-seeking women, refugee women and migrant workers to employment and basic health services, including prenatal and postnatal care;
- (c) Improve its efforts to identify asylum seekers and determine their asylum status, which should be gender-sensitive, age-sensitive and culturally sensitive, in order to ensure the systematic and early identification of women and girls who are victims of or who are at risk of gender-based violence and trafficking, and provide appropriate assistance to such women and girls.”

In 2019, the Ministry of Justice in Morocco reported that it referred both domestic and foreign victims to protection units and CSOs for assistance, including “legal aid, housing assistance, medical care, foreign residence permits, and family reunification” but it did not provide shelter or psychosocial services specific to victims of all forms of human trafficking (US Department of State, 2020c:359). Unaccompanied migrant girls and victims were referred to the appropriate social services in conjunction with NGOs. However, there is no formal national referral system for unaccompanied migrant girls in situations of trafficking (forced labour and/or commercial sexual exploitation), especially those who are identified during labour inspections (US Department of State, 2020c and 2021c).

Tunisia has a comprehensive system for migrant women and girls who access various services if they arrived in Tunisia regularly or hold legal documentation. The Government provides medical, psychological and socioeconomic services to both foreign women in Tunisia and Tunisian women identified within Tunisia and abroad. Given their very precarious legal status, irregular migrant women face many difficulties in obtaining social and health services, and accessing these services from public facilities remains very limited. Some of the key informants informed that some of the women they work with generally have ordinary health problems, while others suffer from chronic illnesses. Also, accessing private health institutions is almost impossible, and those services they can access are limited because they are very expensive. IOM and CSOs (such as Médecins du Monde) offer health education sessions to trafficked women (such as taking precautions and monitoring their pregnancies, protecting their sexual and reproductive health and living with serious and chronic diseases/illnesses). When it comes to irregular migrant women workers who are VOTs, the National Anti-trafficking Commission and Ministry of Interior Special Victims Unit

provide access to health and social services to State-run facilities (US Department of State, 2020c). There is no national legal framework governing asylum. The Ministry of Health has also taken several measures, like circular no. 10 of 2019, which regulates reception of and communication with migrants at public health agencies and the training of staff responsible for assisting women and girl victims of violence in vulnerable situations. In addition, the National Office of Family and Population has continued to implement a cooperation programme with IOM to facilitate migrants' access to reproductive health services. Also, there are included regional training courses on investigative techniques, counselling and support for trafficking victims (United Nations, 2021b).

Access to safe housing is also an issue for migrant women in Tunisia. The difficulties can range from challenges in paying for housing on very limited income, finding housing because landlords do not accept payment from irregular migrants, inconvenient and uncomfortable living spaces (such as garages, warehouses and others), exploitation from landlords and others. Irregular migrant women who are VOTs are provided shelter by some CSOs (such as Cartaas, Amel and Beity) and also the necessary protection for their health and physical health, especially those who are pregnant as they await for their situation in Tunisia to be regularized. Childcare is also a challenge for migrant women but particularly irregular migrant women (such as those who work in cafés and restaurants and domestic workers). In most cases, the women should bring their children along with them, putting the children at risk for work-related hazards and exploitation. Migrant girls who are VOTs had difficulties integrating into schools despite the provisions of the Child Protection Code, which does not distinguish between Tunisian and non-Tunisian children when it comes to accessing education and professional training.

In terms of funding, the Tunisian field data collected indicates that there is absence of specific funds intended for the design and implementation of particular measures capable of allowing migrant women (especially irregular migrant women) to access their rights and benefits for the protection they need. According to interview data from institutional actors, only migrant worker VOTs benefit from accessing social protection services as Tunisian women in vulnerable situations or as VOTs.

4.1.6. Legal protection

Legal protection includes the following: (a) protection of human and political rights; (b) protection from violence; (c) consular protection; (d) safety/protection from harm/violence and abuse; (e) non-discrimination in protection of human rights; and (f) protection of identity documents. The provisions to ensure legal protection by the State for women migrant workers against violence, and physical injury or threats is coded in the Convention on the Elimination of All Forms of Discrimination Against Women General Recommendation 38 and General Recommendation 19 (para. 1) that states “gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men” (United Nations Committee on the

Elimination of Discrimination Against Women, 1992). This includes ensuring that “all legal systems, including plural legal systems, protect victims/survivors of gender-based violence against women and ensure that they have access to justice and to an effective remedy, in line with the guidance provided in general recommendation No. 33” (General Recommendation 35(IV)(A)29(b). United Nations Committee on the Elimination of Discrimination Against Women, 2017).

Legal protection means that States ensure the right of women migrant workers to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin. General Recommendation no. 26 (para. 24) (j) states: “Diplomatic and consular protection: States parties must properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid and shelter when needed. Where States parties have specific obligations under customary international law or treaties such as the Vienna Convention on Consular Relations” (United Nations Committee on the Elimination of Discrimination Against Women, 2008). That is, women migrants should have access to full political rights and processes in the country of citizenship (such as voting from abroad, access to consular services and consular representation).

Countries of origin

Gaps in legal protection exist in all three countries of origin. In fact, many migrant women and girls who are VOTs were not aware that they can file suits against their traffickers. Also, lack of formal identification processes means many women migrant workers who are VOTs remain unidentified across all three countries of origin.

Côte d'Ivoire is a Tier 2 country in the TIP Report, as it does not fully meet the minimum standards for the elimination of trafficking (US Department of State, 2020e and 2021f). In 2019, Côte d'Ivoire signed an agreement with Burkina Faso to improve law enforcement and victim protection. That same year, the Government also signed a tripartite agreement on transnational child trafficking with Togo and Benin. Children, including orphan street children, from Burkina Faso, Togo and Benin are primarily trafficked and exploited in forced labour in artisanal gold mines. However, the government officials of Côte d'Ivoire are complicit in the smuggling and human trafficking of migrant women and girls by hindering legal protection efforts by not duly investigating, prosecuting or convicting those officials. This means that migrant women and girls who are VOTs do not exercise their right to justice. The Government established a bureau to coordinate victim-witness protection, but the decree to implement the law has not been approved. This means that migrant women and girls whose pathways to migration are irregular are left without the safety/protection from harm/violence and abuse not only from smugglers and traffickers, but also from the government officials responsible for their safety and well-being.

Senegal also has a relatively advanced legal framework for the protection of the rights of migrant workers and the protection of human rights in general,²⁰ including a national mechanism to combat TIP: the CNLTP, which is admittedly attached to the Ministry of Justice, but it also has other key informant ministries (such as for health, youth, communication and others). Within it, there are also representatives of religious organizations, the director of supervised education, the collective of the association of Koranic teachers and others. In practice, the CNLTP works with the police and the gendarmerie to dismantle human smuggling and trafficking networks. And according to one of its interviewed members, it dismantled one such trafficking ring with the help of partners OHCHR, UNODC and IOM:

A network of smuggling migrants was dismantled by the research section of the gendarmerie in June 2020 [where] 87 Sierra Leoneans, objects of trafficking, were taken in by the cell and its partners.

Additionally, in October 2019, the CNLTP, in collaboration with the UNODC, launched an anti-trafficking database called Systraite (*Système de suivi de la traite*) to collect data on law enforcement and victim protection. The CNLTP primarily focuses on women and children, but it is underfunded and understaffed. Pilot phases of the system are being implemented in the regions of Dakar, Saint Louis, Thiès, Kédougou and Tambacounda. The CNLTP organized training sessions on the database in each region and carried out an assessment of Law 2005-06 to improve and propose a revision of the normative framework specific to trafficking. It is possible that women migrant victims will also be considered for legal and judicial assistance.

Senegal was downgraded to the Tier 2 Watch List in 2020 in the TIP report, as it does not fully meet the minimum requirements for the elimination of human trafficking (US Department of State, 2020f and 2021g). In the *2018 Global Slavery Index*, which provides a country-by-country ranking of the number of people in modern slavery, Senegal was ranked 109 out of 167 countries (Minderoo Foundation, 2018), and the major VOTs were women and girls (Malakooti, 2020). Nevertheless, the Government implemented the 2018–2020 anti-trafficking national action plan, but even with a national plan and tighter border controls, unless Senegal criminalizes migrant smuggling, the problem of human trafficking will persist.

In 2005, Senegal adopted Law no. 2005-06: Law to Combat Trafficking in Persons and Related Practices and to Protect Victims. The law criminalizes human trafficking for sexual purposes and trafficking in workers as crimes (Kane, 2020), but not the smuggling of migrant women and girls for these same purposes. The law criminalizes and prescribes sufficiently stringent penalties regarding labour trafficking, sex trafficking and forced begging – five to ten years imprisonment and a fine for labour and sex trafficking crimes (except forced begging, whose penalties are two to five years imprisonment and a fine). But the Government consistently applies penalties that

²⁰ See Article 13 of the Universal Declaration of Human Rights.

are lower than those prescribed in the 2005 anti-trafficking law to convicted traffickers and many judicial, and law enforcement officials remain unaware of the 2005 anti-trafficking law provisions reflecting continued limited knowledge on trafficking among officials.

The Convention on the Elimination of All Forms of Discrimination Against Women review indicates that Senegal “has not yet fully incorporated the Convention into national legislation and that discriminatory provisions against women still exist in national legislation, in particular concerning women’s rights in the private sphere” (United Nations, 2022a). The review does not specify that is an area of concern for migrant women only but for all women in Senegal and recommends that the Government of Senegal:

- (a) Undertake a thorough gender analysis of all laws in the State party and identify those that are in conflict with the Convention, with a view to harmonizing them with the Convention, on the basis of the work started by the committee for the review of laws and regulations that discriminate against women that was established in 2016 and with full participation of CSOs;
- (b) Urgently develop the planned national index for gender equality, which should serve as a gender-indicator system to improve the collection of data, disaggregated by sex, with a view to assessing the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and enhancing women’s enjoyment of their human rights.

This would also include, as the review indicates, temporary special measures that would accelerate the advancement of women who are underrepresented or disadvantaged, and this would include the legal protection of women migrants.

Similarly, the Sudan is a Tier 2 Watch List country as it does not fully meet the minimum standards for the elimination of trafficking (US Department of State, 2020a and 2021a). The Sudan has an anti-trafficking plan in place, and was thus granted a waiver as per the Trafficking Victims Protection Act from the required downgrade to Tier 3, remaining on the watch list for three consecutive years. The 2014 National Trafficking Act, which has 5 chapters and 29 articles (and was amended twice in 2020 and in March 2021²¹) established the NCCHT as the highest authority for combating and addressing human trafficking tasked with developing a national strategy (Yahya, 2020) (refer to [Appendix M](#) for a review of the institutional framework of the NCCHT). However, the NCCHT is constrained by inadequate resources, limited presence in States, lack of clear agreement on the terms of reference on the roles and responsibilities of its members, and internal regulatory framework. Additionally, the NCCHT is challenged by the lack of sufficient procedural provisions to ensure proper protection of victims who are mostly young migrant women aged between 14 and 25 years and additionally, the 2014 National Trafficking Act has missed gender-specific protective and preventive measures.

²¹ The first amendment is mainly concerned with the punishment of aggravating circumstances and the last amendments more concerned with protection related provisions of the act.

The legal instrument of the Sudan in addressing trafficking-resembling crimes dates back to 2010, when Kassala, the state bordering Eritrea and host to refugee camps, legislated a State-level act²² to combat smuggling and kidnapping of people. Prior to the legislation of the 2014 National Trafficking Act, many national acts addressed different forms of trafficking, such as the Criminal Code of 1991, Child Act of 2010, Sudanese Armed Forces Act of 2007, National Service Act of 1992 and the Human Organs and Tissues Act of 1998. Authorities continued to conflate human trafficking with migrant smuggling, hindering law enforcement efforts. For the third consecutive year, the Government did not disseminate or implement SOPs for victim identification and referral to care for child trafficking victims developed in partnership with an international organization (US Department of State, n.d.c). However, even with these legal acts in force, the Sudan does not have adequate institutions, laws and regulations or mechanisms to support and protect women migrants from exploitation through smuggling and trafficking before, during and returning migration.

The 2014 National Trafficking Act has no reference to gender-specific preventive or protective measures, and before its amendment, the Act has only referred to women under the aggravating circumstances, whereas committing an act of human trafficking against a woman is considered an aggravating circumstance in Article 9(2)(b). The recent amendment has referred to gender-specific forms of human trafficking such as sexual exploitation. While Article 29 entitled the Minister of Justice with a power to issue explanatory memoranda and regulations for the implementation of the act based on a recommendation from the NCCHT, the 2014 National Trafficking Act remains with no explanatory memoranda since its legislation in 2014. To this end, the Sudan acceded to the Convention on the Elimination of Discrimination against Women in March 2021. The transitional government recently established a unit within the Ministry of Social Development to address GBV, and the Ministry of Social Development is in the process of submitting a draft of a national act to criminalize GBV/SGBV to wider consultations with CSOs and women's rights organizations.

Countries of destination

According to the TIP Report, the Government of Egypt does not fully meet the minimum standards for the elimination of human trafficking, and therefore remains a Tier 2 country (US Department of State, 2020b and 2021b). The 2010 anti-trafficking law criminalizes sex trafficking and labour trafficking and prescribes stringent penalties for sex trafficking; for example, 3–15 years imprisonment (and fines between USD 3,130 and USD 12,500) for offences involving adult victims, but the enforcement efforts are uneven. In 2020, the Government arrested and detained four persons (among 154 cases) who had “allegedly sold Egyptian girls into marriages with wealthy Arab men for the purpose of sexual exploitation” (US Department of State, 2020b:193). The Ministry of Justice has 8 specialized judicial circuits with 30 judges assigned to prosecute human trafficking cases, and who receive anti-trafficking training from the National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons (US Department of State, 2020b and 2021b).

²² The federal system of the Sudan empowered States to enact State-level acts.

The Egyptian People's Assembly has adopted and issued the 2010 Law no. 64 regarding Combating Human Trafficking.²³ The law criminalizes human trafficking with imprisonment sentences of not less than 7 years and not over 20 years and fine not less than 50,000 Egyptian pounds and not exceeding 200,000 Egyptian pounds (Article 5). In accordance with Article 6, the punishment increases to life imprisonment and fines not less than 100,000 Egyptian pounds and not exceeding 500,000 Egyptian pounds in cases of establishing, organizing or managing an organizing group for the purpose of human trafficking. In the context of early marriage, Article 80 of the 2014 Constitution stipulates the State's commitment to protect children under the age of 18 from all forms of violence, abuse and mistreatment, as well as commercial and sexual exploitation, and this protection extends to migrant girls.

It is important to note that the Government of Egypt has a constitutional obligation to apply and respect all human rights conventions as per Article 93 of the Egyptian Constitution 2014. And according to Article 151 of the Constitution, all international treaties and conventions become an internal law within the national legislative structure. Consequently, all binding international legal frameworks that Egypt is party in constitutionally became national laws. Whereas, the international agreements are considered an internal law in accordance with the Egyptian Constitution, the Egyptian Court of Cassation established that "since it was decided that the rules of international law – and Egypt is a member of the international community recognizing its establishment – are integrated into internal law without the need for legislative action, the Egyptian judge is obligated to do its work."²⁴ In what is presented to them from the issues dealt with by these rules, and internal law has not been exposed to them as long as this application does not entail a violation of its provisions.²⁵ From a legal aspect, any shortage and gaps in the laws that are made nationally should be filled directly without taking further action by laws made internationally as long as Egypt is party to those laws. However, the Convention on the Elimination of All Forms of Discrimination Against Women review of Egypt noted that "Act No. 82 of 2016 on illegal migration and smuggling of migrants, under which it is a crime to smuggle, attempt to smuggle or facilitate the smuggling of migrants, and the penalty imposed is more severe if women are among the migrants being smuggled" (United Nations, 2021a). This is a positive reform.

The National Council for Childhood and Motherhood and the National Council for Women began using trafficking indicators to identify women victims (US Department of State, 2020b and 2021b). Fear of cultural and social stigmas, reprisals and high overstay fees (when visas expire) limit criminal complaints reporting by migrant women victims, particularly African women migrant workers, which means authorities inadvertently penalize and even punish women migrant workers who are VOTs. Referring to its previous recommendation (para. 36, United Nations, 2021a), the Committee recommends that the State party accelerate the adoption of the draft law on regulating migrant

²³ Published in Official Gazette, issue 18 (bis), 9 May 2010.

²⁴ The Egyptian Court of Cassation, Ruling no. (259) for year 51, 23 March 1982.

²⁵ The Egyptian Court of Cassation, Ruling no. (259) for year 51, 23 March 1982.

workers to ensure the same level of protection and benefits for them as for other workers, to protect them from abuse and violence, and to develop and implement measures for labour inspection, enforcement and penalties. The Committee also recommends that the State party ratify the ILO Domestic Workers Convention, 2011 (no. 189) (United Nations, 2021a).

In Morocco, there is continued effort to protect women migrant domestic workers through the implementation of Law no. 19-12, which was adopted in October 2018 in all sectors. The law established that all employers are obligated to have written contracts with domestic workers. These contracts are up to a maximum of 40 work hours for people between 16 and 18 years old and 48 hours for adults and, regardless of the age, all domestic workers' contracts are entitled to medical insurance and family allowances, as well as at least one day of rest during the week (Morocco, Government of, 2003). Law 19-12 is not specifically about migrant women, but it does mention foreigners as potential domestic workers when employed by an individual. In addition, except in the case of agricultural workers, all workers must work 2,280 hours per year (44 hours a week), and domestic workers must work at least 48 hours per week (*ibid.*).

Like Egypt, Morocco is a Tier 2 country (US Department of State, 2020c and 2021c) according to the TIP Report. The State has been working to raise awareness regarding combating trafficking, including through the dissemination to legal officials at prosecutors, but there is also lack of information on identification and registration of migrant victims, specifically women and girls smuggled from the trafficking and exploitation of the sub-Saharan region. Regarding discrimination against women, Morocco has modified the 2011 Constitution, adding the principle of equality; and that the Penal Code defines discrimination in conformity with Article 1 of the Convention. However, there are some contradictions between different legislative provisions that remain an obstacle to ensuring the practical realization of the principle of equality of men and women. Even though Law no. 103.13 of 2018 has helped to ensure that women victims of violence enjoy a certain level of protection, including through the National Commission for the Care of Women Victims of Violence and regional and local committees, police are not sensitized regarding human rights, including women's rights. This leads to increased GBV towards women (United Nations, 2022b).

Further, while the Government has increased its efforts to investigate, prosecute and convict traffickers, it fails to disaggregate the human trafficking data from migrant smuggling crimes data, which means there is little safety/protection afforded to migrant women and girls. In 2019, the Government reported that it initiated the prosecution of 307 alleged traffickers for sexual exploitation and forced labour, under Law 02-03 and Articles 52, 53 and 73, and identified 423 trafficking victims (US Department of State, 2020c). However, it is not clear if perpetrators were convicted of trafficking or smuggling crimes since the laws pertain to irregular migration. Moreover, it is not clear if the VOTs were migrant women and girls smuggled in the country. Only Moroccan Law 27.14 criminalizes sex trafficking and labour trafficking and prescribes penalties of 5 to 15 years imprisonment (and fines of USD 1,040–USD 52,100) for offences involving adult victims and 20 to 30 years (and fines of USD 10,420–USD 104,200) for those involving a child

victim (US Department of State, 2020c and 2021c). Indeed, the Convention on the Elimination of All Forms of Discrimination Against Women review of Morocco indicates that identification of migrant women VOTs is problematic; there exists a lack of information on identification and registration of migrant victims, specifically women and girls smuggled from the trafficking and exploitation of the sub-Saharan region (United Nations, 2022b). Moreover, Morocco's Penal Code has discriminatory provisions that stigmatize and put lesbian, bisexual, transgender and intersex women at risk of criminal penalty. As unmarried mothers are at risk of being prosecuted for having sexual relations outside of marriage when registering birth certificates and applying for other documents for their children, the Committee requested that Morocco recognize the right of unmarried mothers to assert their rights and the rights of their children without fear of any form of prosecution and stigmatization. This is especially relevant for women migrant VOTs for whom sexual assault and rape results in pregnancy and have no legal protection under the law and face prosecution.

The TIP report identifies Tunisia as a Tier 2 country (US Department of State, 2020d and 2021e). There is little quantitative data on human trafficking and migrant smuggling because Tunisia does not yet have counter-trafficking legislation, and any derived data comes from related crime, media and anecdotal reports. In fact, before new legislation on preventing and combating TIP was adopted in August 2016, migrant worker VOTs did not have legal protection in Tunisia. Again, the data, like in other countries of destination, is not disaggregated in terms of legal status (regular versus irregular).

KII data revealed that immigrant women who were VOTs come particularly from Côte d'Ivoire, are between 20 and 40 years of age, and mostly trafficked in the form of domestic servitude. These women receive various services provided to them, for example by IOM and several CSOs, including accommodation, social and legal support and health care. Some women are also supported and mentored to set up small income-generating projects that allow them to be more autonomous and achieve their socioeconomic integration. However, despite the importance of the various actions carried out with regard to immigrant women in an irregular situation and those VOTs, and despite the rights granted to them, their care encounters various legal difficulties that limit the quality of the interventions undertaken by the various institutional actors. Thus, several actions must be taken to improve this care and strengthen it further. These improvement actions will relate to trafficking and smuggling of migrants, the care of immigrant women VOTs and the harmonization of migration legislation and policies.

Every tribunal in Tunisia has a "prosecutor and investigative judge responsible for overseeing human trafficking cases and leading anti-trafficking training programs for judicial officials" (US Department of State, 2020d:495), including a specialized special victims unit to assist VOTs and GBV (US Department of State, 2020d and 2021e). The Government of Tunisia has "expanded cooperation with the governments of Senegal and Côte d'Ivoire to exchange information about potential trafficking cases" (US Department of State, 2020e:495). The INLTP, between 2019 and 2020 "identified 1,313 trafficking victims from among the potential victims referred to it

by government agencies” (ibid.), and more than half the victims were foreign women. Notably, migrant women from Côte d’Ivoire formed most cases involving economic exploitation, while Tunisian women made up most of the cases on sexual exploitation.

Tunisia adopted Law no. 2016-61 of 3 August 2016 on preventing and combating TIP. This legislation has enabled Tunisia to better prevent this serious crime, protect victims, prosecute perpetrators and develop partnership at the national and international levels. Since the establishment of the INLTP in 2018, Tunisia has begun to have some data on TIP that appear in an official document prepared and disseminated by the INLTP; this is the national annual report on the fight against TIP, which is elaborated from a work of cross-checking data and information collected on the basis of cross-sources. According to the data of the first three annual reports (2018, 2019 and 2020) prepared by the body mentioned on the issue of TIP in Tunisia, it has been realized that women are the most affected by this practice, which violates human dignity and the various human rights. On the other hand, the various reports have highlighted that a large proportion of female victims of TIP in Tunisia are migrant women.

The major contribution of the Law no. 2016-61 lies in the inclusion in the Tunisian legislation of rules relating to the protection, in the broadest sense, of victims as soon as they are detected and then identified. Yet, according to the data collected, it is observed that national legislation, despite its importance in ensuring the minimum level of protection, lacks some conformity with international labour law. One of the stakeholder interviewees stated that Tunisia should make more effort to align itself with international labour law, particularly with regard to the employment and protection of migrant workers in informal employment. When it comes to women, field data from the interviewed key stakeholders indicated that women in an irregular situation do not benefit from legal protection and are indeed vulnerable to the risk of being detained in a detention centre or expelled from the country. Their protection options are to turn to one of the international organizations (UNHCR or IOM) or to obtain certain services from one of the CSOs that work with this category of migrants. However, migrant women who are VOTs are provided for legal support including obtaining identity documents, and this allows for follow-up of the victim’s investigation file and intervention with the services of the embassy of their country. CSOs also provide the women with training and legal literacy sessions designed to provide them with knowledge about their legal status, their rights and the procedures they need to follow to protect themselves from deportation and detention.

Also, according to the various actors interviewed, there is a weak coherence and limited interconnection between certain national legislations. For example, there is no harmony between Organic Law no. 2017-58 on the Elimination of Violence against Women and Organic Law no. 2016-61 of 3 August 2016 on preventing and combating TIP regarding the suppression of acts of trafficking. According to the organic law, VAW is punishable by three to six months of imprisonment and a fine of 2,000 to 5,000 dinars. This penalty is increased to 10 years’ imprisonment according to the provisions of the 2016 Law on Trafficking in Persons (Article 8).

There are no legal provisions/clauses that ensure protection by the State for migrant workers against violence, physical injury or threats (as per the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families). Laws fall short of specifically protecting women migrant workers from SGBV (both in private and public spheres) both for citizens and aliens, independent of legal status. No legal provisions are in place that specify particular measures (such as free police protection) for VOTs and ensure the right of women migrant workers to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin. There are no provisions that ensure migrant women's access to full political rights and processes in the country of citizenship (such as voting from abroad, access to consular services and consular representation). Provisions fail to ensure the safety of life of all migrant women, regardless of their legal status and without any discriminations based on gender, race, ethnicity, culture, nationality and language, and there are provisions/clauses related to SGBV and VAW, sexual harassment and others (both in private and public spheres) for migrant women. No provisions/clauses ensure access to temporary protective status in cases of exploitation, abuse and trafficking.

4.1.7. Access to justice

General Recommendation no. 38(VI)(42) states that “trafficked women and girls, including those who do not hold an immigration status, must be ensured access to justice on the basis of equality and non-discrimination including the prosecution of their perpetrators and provision of remedies. However, existing justice systems may be more likely to violate women's rights than to protect them, including by subjecting victims to criminalization, stigmatization, revictimization, harassment and possible retribution” (United Nations Committee on the Elimination of All Forms of Discrimination against Women, 2020). *Access to justice* refers to the ability for women migrant workers (both documented and undocumented) to have substantive access to their rights in practice. It means that they should be able to assert their rights and seek legal remedy or redress in situations where their rights are violated. This includes States establishing “a system to regularly collect, analyse and publish statistical data on the number of complaints about all forms of gender-based violence against women, including technology mediated violence, the number and type of orders of protection issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction and the amount of time taken for the disposal of cases” (para. 34 (F)(b), United Nations Committee on the Elimination of Discrimination Against Women, 2017). However, women migrant workers' access to justice and their ability to seek remedies for violations of labour, employment and social protection rights remain limited. The major indicators for the access to justice theme include the following: (a) legal representation; (b) fair trial, complaints, prosecution and sentencing; (c) compensation; (d) protection from re-victimization (trafficking); (e) privacy and confidentiality; and (f) coordination and referral and national referral mechanism.

Countries of origin

The Government of Côte d'Ivoire has no clear or formal mechanism to proactively identify and refer migrant women and girls who are VOTs. However, the country has increased its efforts in identifying victims through coordination between the SDLTED-J anti-trafficking unit, the Transnational Organized Crime Unit and the Brigade Mondaine who all have operational procedures for referral and care. Additionally, limited funding and resources create serious gaps for law enforcement and judicial proceedings. For example, the Sub-directorate in the Fight against Trafficking and Child Labour (SDLTED-J, anti-trafficking unit) is responsible for enforcing anti-trafficking laws nationwide, but it only has staff in Abidjan (US Department of State, 2020e). There is also a lack of coordination between the SDLTED-J anti-trafficking unit (mandate is child trafficking) and other enforcement organizations like the Transnational Organized Crime Unit (national jurisdiction on organized crime), the Brigade Mondaine (prostitution and sex trafficking), the Ministry of Defence Gendarmes (investigate trafficking in rural areas), and none had clear mandates for adult labour trafficking (US Department of State, 2020e).

The 2016 Law on the Fight against Trafficking in Persons of Côte d'Ivoire criminalizes sex trafficking (including the knowing solicitation and patronization of sex trafficking victims) and labour trafficking, and prescribes sufficient stringent penalties of 5 to 10 years' imprisonment (and fine of USD 8,590–USD 17,180) for adult trafficking and 20 to 30 years' imprisonment (and fine of USD 17,180–USD 85,910) for child trafficking (ibid.). Its related penal code provisions also criminalize the knowing solicitation and patronization of a sex trafficking victim. However, the Government did not sentence more than half of the convicted traffickers to adequate prison terms (US Department of State, 2020e and 2021e). The 2010 law remains the primary law used to prosecute both adult and child trafficking (US Department of State, 2020e), even though the 2016 Law on the Fight against Trafficking in Persons is in effect with harsher penalties. Lack of training in investigating and prosecuting trafficking violations is a major challenge, as some judges and prosecutors remain unaware of the 2016 trafficking law and continue to use the 2010 law (ibid.).

In Senegal, there has been progress in terms of enhancing women's access to justice as reflected through the increase in the budgetary allocation for the provision of judicial aid along with the efforts made to provide such aid through decentralized legal support centres ("justice houses") (OHCHR, 2022a). Administered by the Ministère de la Justice with support from the Embassy of France and the Open Society Initiative for West Africa, these semi-formal courts provide mediation and conciliation services in accordance with local customs and usages (World Justice Project, n.d.). In addition, the Convention on the Elimination of All Forms of Discrimination Against Women document has been translated into six Senegalese national languages and disseminated at the local level (ibid.). However, the Convention review notes that there are concerns regarding multiple practical barriers faced by women in obtaining access to justice (ibid.).

In 2014, the Parliament of the Sudan voted to pass the 2014 Combating of Human Trafficking Act, the Sudan's first law to deal specifically with human trafficking. This law criminalizes some forms of sex trafficking and some forms of labour trafficking but failed to define what is constituted exploitation. Gaps still exist in the Government's capacity to combat human trafficking, and the Sudan's anti-trafficking legal framework remains inconsistent with international law because it requires a demonstration of force, fraud or coercion to constitute a child sex trafficking offence. In 2018, the Government reportedly investigated 150 trafficking cases, prosecuting 30 of those cases and convicting 45 traffickers. In August 2018, almost 100 VOTs – of which 85 were children – were rescued by Operation Sawiyan, which is run by Interpol and Sudanese police officials. In 2019–2020, the NCCHT reported that authorities investigated and prosecuted 97 potential traffickers for crimes involving sexual exploitation and forced labour, and that 5 traffickers were convicted. The National Council for Child Welfare provided shelter and medical services to 84 potential child trafficking victims from Eritrea and Ethiopia in 2019. The Government has decreased overall protection efforts and identified fewer victims. The authorities identified 1,200 potential victims in 2019 but did not report identifying or reintegrating any child soldiers.

The lack of procedural provisions or annexed explanatory memoranda within the Sudan's 2014 National Trafficking Act is a major deficiency. One example is the lack of a referral mechanism to follow once victims are identified. As mentioned by the former special counter-trafficking prosecutor in Kassala state, the 2014 National Trafficking Act is undermined by deficiency in the procedural aspects, even though it is a substantive and punitive law applied through the Criminal Procedures Act of 1991. For example, the 2014 National Trafficking Act penalties include: "three and 10 years' imprisonment for base offences involving adult male victims and between five and 20 years' imprisonment for offences involving adult female and child victims or involving additional aggravating circumstances" (Yahya, 2020:464). The latter, the Criminal Procedures Act of 1991, lacks adequate procedural provisions as to the nature of TIP being an organized cross-border crime.

In March 2021, workshops were convened by IOM, UNODC and the Judicial and Legal Sciences Institute in the Sudan to discuss the domestication of the Smuggling Protocol into the national legal framework. The domestication of the Smuggling Protocol would address the legal protection of migrants, particularly women and girls. There were efforts made to provide such aid through decentralized legal support centres (justice houses), but women continue to face multiple barriers to obtaining access to justice (United Nations, 2022a). The justice houses were mechanisms for monitoring and support that existed and operated with the financial support of the State as supplementary to legal offices.

Countries of destination

In Egypt, access to justice is particularly difficult. The Convention on the Elimination of All Forms of Discrimination Against Women Committee review notes the efforts by Egypt to improve "the handling of complaints submitted by women to the Office of the Ombudsperson, which provides legal support and counselling for women. However, the Committee is concerned about

the limited availability of free legal aid and counselling and the limited access to information on mechanisms and procedures for seeking remedies for violations of the rights of women and girls, especially those in rural and remote areas and those belonging to disadvantaged and marginalized groups” (United Nations, 2021a). As such, the Committee recommends that Egypt (ibid.):

- (a) “Continue strengthening the legal aid and counselling programme of the Office of the Ombudsperson with regard to complaints submitted by women, to ensure that women have access to affordable or, if necessary, free legal aid services, particularly women in rural and remote areas and those belonging to disadvantaged and marginalized groups, and disseminate information on the mechanisms and procedures for seeking remedies for violations of the rights of women and girls.
- (b) Combat the stigmatization of women and girls who submit complaints about violations of their rights by raising awareness among the general public of those rights;
- (c) Continue strengthening the gender responsiveness and gender sensitivity of the justice system, including by increasing the number of women in the judiciary and providing systematic capacity-building to police officers and other law enforcement officials on women’s rights and gender-sensitive investigation methods to prevent the revictimization of women and ensure that they have effective access to justice.”

Morocco has signed numerous international conventions and is a signatory of the Convention on the Elimination of All Forms of Discrimination Against Women, but it is worth noting issues the Convention on the Elimination of All Forms of Discrimination Against Women Committee has raised over its treatment of migrant women; and Morocco has not ratified key agreements such as the ILO Domestic Workers Convention of 2011. Key areas of Morocco’s legal framework around the status of women are not compatible with international legal principles. Morocco encourages female victims, both domestic and international migrants, to cooperate in investigations against their traffickers, and it does provide legal alternatives to deportation of foreign women migrant VOTs to countries where they might face retribution (US Department of State, 2020c and 2021c).

The Government of Morocco remains without a formal country-wide victim identification and referral system, and as such unidentified victims, particularly women migrant workers, remain at risk of penalization and punishment from authorities, including arrest and deportation and re-trafficking (US Department of State, 2020c). Also, the Government does not provide specialized protection services for trafficking victims. When it comes to protection, the Government continues to penalize unidentified victims among vulnerable populations who are foreign women migrants from the WCA region and sub-Saharan Africa. For example, the Government continues to forcibly relocate many sub-Saharan African women migrant workers (who are a highly vulnerable population for trafficking) from the areas near Ceuta and Melilla without proactively screening for migrant smuggling and trafficking in an effort to curb irregular migration (US Department of State, 2020c and 2021c).

The Convention on the Elimination of All Forms of Discrimination Against Women review of Morocco in regard to access to justice indicates that Law no. 103.13, which entered into force in September 2018, has helped to ensure that women victims of violence enjoy a certain level of protection, including through the National Commission for the Care of Women Victims of Violence and regional and local committees that were established in order to give effect to section IV of the Law (OHCHR, 2022b). However, the Committee also expresses concern at reports that police are not sensitized regarding human rights, including women's rights, and that, particularly in rural areas where the Amazigh language is spoken, women are not aware of their rights because information is not as available in their language. The Committee is further concerned at reports that the burden of proof in cases of GBV is on the women victims (*ibid.*). Additionally, the Committee also notes that the new provisions introduced to Act 103-13 against all forms of violence against women created new offences relating to the violation of privacy and provided increased penalties in situations where the violation was due to gender. It notes that a draft criminal act strengthening legal protections for women and children, particularly against violence, is before parliament. The Committee also notes the State party's indication that marital rape is covered under Article 486 of the Penal Code. However, the Committee expresses its concern over reports that:

- (a) Women may be reticent to make a complaint of sexual harassment or other sexual violence out of fear of being charged with a violation of Article 490 of the Penal Code which sanctions sexual relations outside of marriage;
- (b) Article 489 of the Penal Code puts lesbian, bisexual, transgender and intersex women at risk of penal sanctions, which can result in stigmatization and instances of violence;
- (c) Child and forced marriages continue to take place in the form of Al-Fatiha marriages;
- (d) Domestic violence has increased since 2009, and there is insufficient due diligence given to ensuring privacy of victims and for providing an adequate number of shelters.

However, it is not clear as to how these provisions are implemented in regards to irregular women migrants and VOTs.

Unlike Morocco, which does not have a national victim referral system, Tunisia has implemented a national victim referral system that in 2019 "directly provided more than 150 identified victims with protection services" like medical and psychosocial services (US Department of State, 2020d:495). Not many institutions offer effective remedies for trafficked persons, and that the Government had not established any protection centres or shelters for trafficked persons. Morocco has not taken adequate measures for building their capacity to address TIP and provide VOTs with assistance.

Tunisia adopted the Organic Law no. 50-2018, which is the first of its kind in North Africa and in the Arab world, penalizing racial discrimination. This law allows victims to bring cases to court and obtain compensation, especially since racism in Tunisia has been rampant against Black people and/or migrants, for many years. Knowing that migrants, particularly those from sub-Saharan Africa, are the most affected by the problem of racial discrimination, the Law stipulates that the

penalty will be doubled when the victim is a child, or a person in a vulnerable situation due to their advanced age, disability, apparent pregnancy or immigration or refugee status. This law is important to migrant women especially those in irregular situations and informal job sectors and those who are migrant worker VOTs and face a significant problem of racism. However, despite the importance of the Law, it has not been followed by an action strategy or communication plan to raise awareness and demonstrate to victims what their rights are and how they can acquire them; as one civil society key informant pointed out, “No organization has a specific programme to fight racism or to raise awareness of its impacts among the local population.”

Like other countries of destination, there has been a decreased effort of prosecuting and convicting traffickers in Tunisia, and this is inhibited by a lack of knowledge on human trafficking laws among officials, and appropriate services for victims is limited. Tunisia’s anti-trafficking law, Organic Law 2016-61, enacted in July 2016, criminalized sex trafficking and labour trafficking and prescribes sufficiently stringent penalties – 10 years’ imprisonment (and a fine of USD 18,040) for offences involving adult victims and 15 years’ imprisonment (and a fine of USD 18,040–USD 36,080) for offences involving child victims. However, efforts to fully implement the law are hindered by several factors including insufficient capacity-building and limited funding, low awareness among judicial authorities and police on the application of the law (most alleged traffickers are not prosecuted under the anti-trafficking law), and lack of victim or witness testimony due to fear of reprisals (US Department of State, 2020d).

Egypt has worked on hardening the penalty imposed for smuggling of migrants, and more severe punishments if women are among the migrants being smuggled. In addition, the State has made efforts to improve legal support and counselling for women. However, there is limited availability of free legal aid and access to information on the mechanisms and procedures for seeking justice for women and girls, especially those who live in remote areas (United Nations, 2021a). Further, the Convention on the Elimination of All Forms of Discrimination Against Women Committee has indicated that Egypt should improve its efforts to identify asylum-seekers and determine their asylum status, which should be gender-sensitive, age-sensitive and culturally sensitive, in order to ensure the systematic and early identification of women and girls who are victims of or who are at risk of GBV and trafficking, and provide appropriate assistance to such women and girls (ibid.).

4.1.8. Migrant return and reintegration

Since migration, at all stages, is a highly gendered phenomenon, women migrant workers confront gender-specific challenges and needs when it comes to their return/repatriation and reintegration. Gender-responsive reintegration services are required to ensure women migrants have access to services and legal protection upon safe return to countries of origin. This includes national laws that establish measures to prevent gender- and sexual-based violence and discrimination of women returnees. This is grounded in the Convention on the Elimination of All Forms of Discrimination Against Women General Recommendation 26 (para. 24) (h), which requires State parties “ensure

that women who wish to return to their countries of origin are able to do so free of coercion and abuse” (United Nations Committee on the Elimination of Discrimination Against Women, 2008) and in para. 24(i) that the States “should design or oversee comprehensive socio-economic, psychological and legal services aimed at facilitating the reintegration of women who have returned. They should monitor service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad and should have complaint mechanisms to protect the women against reprisals by recruiters, employers, or former spouses” (ibid.). In the absence of gender-responsive reintegration services, women rarely have access to adequate socioeconomic, psychological and legal support on their return. The major indicators for the gender-based experiences included the following: (a) safe return; (b) gender-responsive repatriation and reintegration; and (c) family reunification. Indeed, recognition of skills is important to ensure a more successful reintegration in the labour market upon return to the country of origin. Women reported more challenges in accessing employment and training opportunities, as well as health-care services, often following abuses and exploitation during their migration journey. It is thus crucial that reintegration for returnee women migrant workers ensures their gainful and sustainable involvement in social, cultural, economic and political life, which becomes a reality if they are skilled and have had the opportunity to enhance their skills in the countries of destination. Data and statistics are critical tools for formulating evidence-based policies that are based on gender equality and that promote gender equality and women’s empowerment, assessing their impact and promoting accountability.

Countries of origin

Côte d’Ivoire has made efforts to return Ivorian trafficking victims (61 women) from the Comoros, Kuwait, Madagascar, Morocco, Tunisia and Türkiye. Notwithstanding, a lack of reintegration assistance prevented victims from accessing both justice and social services and rendered them vulnerable to re-victimization (US Department of State, 2020e and 2021f). Women’s lack of access to land is a significant barrier to economic empowerment, and specifically restricts their ability to access credit. Despite women and men having equal land rights by law, there is a dominant customary system that strongly favours male land ownership. Only 8 per cent of women hold a land title compared to 22 per cent of men.

A European Union–IOM Joint Initiative report indicates that 85,000 migrants have been assisted with their return, and 14 per cent are women. Research data shows that 25 per cent of the Ivorian migrant returnees are women (IOM, 2020c). Because of the violence many of the women migrants have experienced, their return and reintegration into the home country is more difficult because of the stigmatization and shame linked to these experiences (ibid.). Nonetheless, assistance with return does offer women opportunities that empower them including raising awareness on safe migration for women (ibid.).

Migration remains a State-centric and securitized issue in the Sudan, as in many countries in the region. The involvement of national non-State actors (national civil society) and migrants' communities is limited and symbolic. Pertaining to migrant women, there is a lack of gender-sensitiveness in the laws, institutions and mechanisms that exist in the Sudan to provide support for women before, during and after migration. The legal and policy systems are feeble particularly in relation to family reunification, personal laws or personal status, asylum rights and refugee protection, protection of vulnerable persons or groups, and discriminatory rules (Babiker, 2011). However, new migration-related acts have been legislated (such as the 2014 Act), while others were reviewed and amended (such as the Asylum Regulation Act of 2014 and the Passports and Immigration Act of 2015). IOM provides medical assistance and psychosocial support to irregular migrant women who are stranded in the Sudan. In 2017, IOM assisted approximately 376 migrants with voluntary return to countries of origin (IOM, 2017c).

In the case of Senegal, over 6,000 migrants returned between January 2017 and July 2020 through the AVRR Programme of IOM (IOM, 2020d). The IOM report in 2018 revealed that a high level of debt among return migrants negatively impacted the reintegration processes of migrants (ibid.), but as for migrant women, there is a lack of gender-disaggregated data, let alone on the gendered experiences of their return and reintegration.

Countries of destination

The AVRR Programme of IOM is recognized as the sustainable cost-effective solution for irregular migrants in need of return to countries of origin (IOM, 2021b). In Egypt, IOM ensures that stranded migrants are aware of the possibility of safe return and coordinates with the Ministry of Foreign Affairs and airport authorities, embassies and consulates. The main returnees from Egypt are Sudanese migrant workers.

In Tunisia, there is no specific policy or mechanisms focused on migrant return. However, with the adoption of Law no. 2016-61 (3 August 2016) on the prevention and fight against TIP in Tunisia and after the creation of the INLTP, the Tunisian policy on the protection of migrant worker VOTs began to take its form with several initiatives and measures taken to guarantee victims, whether they are men or women, a set of rights and the possibility of achieving their socioeconomic reintegration upon return. In 2021, the INLTP identified 718 trafficking victims; while this represented a decrease from the 907 victims it identified in 2020 and 1,313 identified victims in 2019, it was an increase compared with 780 in 2018 and 285 in 2017 (US Department of State, n.d.d).

IOM and some CSOs provide women information and advice to increase their awareness of their human and labour rights and the gender-specific risks of migration. For example, in the context of the AVRR Programme of IOM, given the very long period of time that it requires, some CSOs continue to work with the women concerned to help them prepare for their return and begin to

develop a life plan that will enable them to successfully integrate into society and the workplace once they return home. This model provides a valuable touchstone as a multi-stakeholder initiative focused on protecting rights and facilitating reintegration – but more can be done to heighten the gender-responsiveness of such programmes (that is, developing skills partnerships and training initiatives designed to facilitate women’s re/entry into non-gendered traditional employment, or to credentialize the skills of that work while in countries of destination, which can then be recognized upon return to the countries of origin).

Key issues, challenges and recommendations

5.1. Key issues and challenges

The analysis of the legal and policy instruments (pertaining to migration, trafficking and smuggling) existing in the countries of origin and destination is based on the eight themes informed by a broader institutional mapping of legal, normative and institutional frameworks including government, non-government actors and international organizations, including United Nations agencies working in the field of migration, trafficking, smuggling, labour and employment and gender equality with a specific focus on migrant women (refer to [Appendix H](#)). In addition to analysing the legal and policy documents existing in writing, the identification of the key issues and challenges was carried out by drawing on the qualitative data collected from women migrants and a range of government and non-government actors and agencies. In doing this, the report identified the key institutions and actors responsible for implementation of the legal regimes across all the four areas and key regional policy frameworks. The report also examined procedures/processes in place to ensure migrant women's access to human, labour, economic, social, political and cultural rights. Also, the report identifies strengths and limitations of the extent to which the system supports migrant women's empowerment and integration, and prevents trafficking and other forms of exploitation and harm. From a gender equality and women's rights perspective, a series of more specific questions (refer to [Appendix A](#)) were formulated to enable the identification of the strengths and synergies, deficits and contradictions – across the four legal and policy regimes and the institutions and actors that implement them.

The analysis of national policy and legal instruments across the four policy and legal domains revealed several gaps, incoherence and contradictions that results in the gendered vulnerabilities and challenges for migrant women. Such problems and the lack of gender sensitivity also existed in institutional practices, as well as at the implementation level, resulting in migrant women's and girls' economic empowerment and integration. The analysis of the existing legal and policy instruments and the qualitative data identified a continuum of discrimination along the entire migration trajectories of migrant women. The key issues and challenges confronted by women

migrant worker (both documented and undocumented) constitute a sort of continuum of precarity beginning from gendered conceptions of work and discriminatory socioeconomic systems that deprive women of proper employable education and training in the origin countries, to gendered migration pathways that create conducive conditions for the risks of trafficking and smuggling of women migrants. Such gendered migration trajectories then place women at high risk of exploitation and abuse in transit while inserting them into highly gendered labour markets and informalized and unregulated feminized sectors that are devoid of labour protections and human rights.

In the first place, there existed gender discriminatory conditions in the countries of origin, such as the lack of equal access to education and skills development and discrimination in the local/national labour market. Such gender discriminatory systems directly led to blocked or discriminatory migration pathways and the concentration of women's and girls' migration in precarious sectors with a lack of access to human, labour, social, cultural and political rights and protection in transit and destination countries. The end result of this continuum of discrimination created the conducive conditions where women and girls were susceptible to the following: (a) trafficking, smuggling, exploitation and abuse; (b) adverse impacts on their human, socioeconomic cultural and political rights; and (c) their integration at different stages of migration, from pre-departure to transit and the destination to their return.

Structural and systemic issues remain unaddressed. In the interview with both key informants and migrant women, economic reasons were cited as the main drivers for human trafficking. The deprivation of equal opportunities for education and gender discriminatory local/national labour market in the origin countries increased the susceptibility of women and girls to smuggling and/or trafficking. The equal access to equal education and training, which could equip the women and girls with the necessary skills to seek employment in the local formal labour markets in the countries of origin, transit and destination, was thus at the roots of women and girls' trafficking and/or smuggling. Further, the lack of access to education and skills was intersected with other systemic injustices and gender-based discriminatory systems and practices (such as poverty, gender discrimination, domestic and sexual violence) compounded the root causes of trafficking and/or smuggling. Such situations of destitution faced by women and girls further exacerbated by externalities such as conflicts and natural disasters, while the ongoing COVID-19 pandemic increased their risk of vulnerability to exploitation. The right to education is one of the key principles underpinning the 2030 Agenda and SDG 4 adopted by the international community. SDG 4 is rights-based and seeks to ensure the full enjoyment of the right to education as fundamental to achieving sustainable development. Indeed, when women and girls migrate without proper skills, they are most likely to end up working in precarious sectors in the countries of destination.

Structural inequalities, particularly in education, leave women as well as children, youth and marginalized groups vulnerable to human trafficking and human rights violations by unscrupulous smugglers. This also means that the next generation (youth) of irregular and unskilled migrants also engage in the precarious sector and can only migrate as unskilled irregular workers, where they end up again in the precarious sector exposed to the same or similar risks as their parents. Addressing key structural barriers and gender norms is critical to women's economic empowerment. These include property ownership, education and skills gaps, GBV, representation and decision-making power, and reproductive health and access to contraception.

Protectionist discourse is predominant in most legal and policy instruments. The “protectionist” dominant narrative in international legal and policy instruments serves as a double-edged sword. While it is important for the narrative to emphasize the protection of women and children and the need to rescue them from traffickers and unscrupulous smugglers, as long as it is viewed as a women's issue, it is less likely to garner the firm international and domestic commitment and resources needed for true preventative measures. Since many trafficked women and men are often also poor migrant individuals, their marginalization and invisibility go beyond gender issues and is compounded by the intersection of multiple other axes of exclusion.

Access to services remain as critical gaps within the existing legal and policy instruments. While migrant women have varying needs across time, space and place, field data analysis showed that migrant women have specific needs in relation to education, health care and protection in cases of maternity and violence, for example. Identifying structural and systemic level factors that create gendered situations of vulnerability that have uneven consequences for women, girls and gender-diverse people on the move is important. Comprehensive health care, including sexual and reproductive health, is also urgently required considering migrant women's increased risk of SGBV and sexually transmitted diseases at all stages of migration. Access to social protection and services often requires beneficiaries to register or provide personal data to a government agency, which may feel risky for migrants with irregular status. Since maternity protection remains very limited for migrants, and virtually non-existent for migrants with irregular status, access to health care is even more important. Health risks are elevated for women lacking access to education, which, as noted earlier, is a gendered structural and systemic factor in the smuggling and/or trafficking of migrant women. For example, in the Sudan, the National Counter Trafficking Act has no reference to gender-specific preventive or protective measures. Before the amendment of the National Act for Combating Human Trafficking, the act only referred to women under the aggravating circumstances, whereas committing an act of human trafficking against a woman, is considered an aggravating circumstance in Article 9(2)(b). The recent amendment has referred to gender-specific forms of human trafficking such as sexual exploitation.

In both origin and destination countries, there remain stark contradictions, inconsistencies and incoherence across the labour laws, migration policies and the legal instruments related to trafficking and smuggling. In addition, there is a lack of proper coordination and cooperation between and within various State agencies and institutions that are responsible for implementing the legal and policy instruments at the national level. For example, gender-based discrimination continues to persist in all six countries in focus when providing education and training for women and girls. The application of the legal and policy instruments is not gender-sensitive, let alone gender-responsive even though there are legal and/or policy provisions in place that should operate in tandem with one another.

Gender-non-conforming migrants further fall through the cracks. The experiences of migrants with diverse SOGIESC are not well documented in the legal and policy documents (Su et al., 2020), and their experiences marked with discrimination, in particular, in accessing services.

Collection of data and statistics is at the heart of migration problems. In most cases, the data is almost non-existent, and when it is available, it is sporadic and not disaggregated by sex and gender. For example, in Senegal, even official and regular migration data (emigration and immigration) suffer from a glaring lack of at least visible data, let alone, sex disaggregated data. This was seen in the other countries of origin under study. When it comes to migrant women, first, there is no efficient system in place for collecting real-time data. Further, the government entities responsible for collecting the information are not connected to a unified system. Second, the State agencies, such as the Ministry of the Interior, through the air and border police directorate, register entries and exits only at airports. But some NGOs have collected statistics since they go on missions to the borders – and this data is often not collated, shared and legitimized. Third, diplomatic and consular missions may also have statistics of their nationals, but the loopholes remain since those migrating through irregular means do not often register with the diplomatic missions of their countries.

Lack of data on returnees and their patterns of reintegration. While most origin countries register outflows of regular workers, few countries monitor – or have the capacity to monitor – the return flows of women migrant workers or maintain databases of returnees. Destination countries may also consider the release of data on expulsions and deportations as being too sensitive. The absence of information makes it difficult to provide targeted services or interventions according to the profiles of returnees and their geographical spread. In some of the countries in focus, there are no clear legal or policy frameworks supporting reintegration. In some cases, migrant women do not feel safe to report instances of violence and do not have adequate and safe access to the services they need on their return to their country of origin.

5.2. Recommendations

The trafficking and/or smuggling of women and girls are closely linked with the gender discriminatory and inequitable labour systems and migration policies in both countries of origin and destination. The solution to the problems of violations of labour and human rights of both documented and undocumented women migrants should therefore be sought within the synergy between the four policy and legal regimes and their concerted and effective implementation, instead of them operating in silos and isolation with one another. The General Recommendation no. 38(13) states that “[c]ombating trafficking in women and girls in the context of global migration requires the engagement of the larger protection framework stemming from international humanitarian law, refugee law, criminal law, labour law and international private law, the conventions against statelessness, slavery and the slave trade and international human rights law instruments” (United Nations Committee on the Elimination of All Forms of Discrimination against Women, 2020).

Although TIP is a social justice and human rights issue, it continues to be predominantly seen through a law enforcement lens, prioritizing investigation and prosecution of traffickers rather than seeking enduring solutions through the long-term social inclusion of both documented and undocumented migrant women (United Nations, 2020). Further, there is a need to bridge stark discrepancies between policy-on-paper and policy-in-practice on labour migration. To do so requires designing and implementing robust, gender-sensitive monitoring, evaluation and reporting systems, and ensuring that staff have the capacity to collect and analyse qualitative and quantitative data to be used in monitoring and evaluation of programmes and policies from a gender perspective. Figure 3 provides some specific recommendations aimed at addressing the complexities in these intertwined precarities.

Figure 3. Recommendations for addressing gendered precarities of women migrants

Collect	Collect gender- and sex-disaggregated migration data
Formulate	Formulate evidence-based gender-responsive policies
Domesticate	Domesticate international legal provisions and norms taking gender into consideration
Create	Create regular migration pathways
Regulate	Regulate recruitment systems in gender-sensitive ways
Bring	Bring both documented and undocumented women migrants under legal and policy protection
Respond	Respond to gendered challenges during return, recovery and re/integration
Combat	Combat the gendered root causes
Enhance	Enhance women and girls' capacities through an equal opportunity for education and training
Build	Build synergies, partnerships and cooperation

Source: Authors' own elaboration based on 2023 data from Gender + Migration Hub, n.d.

5.2.1. Collect gender- and sex-disaggregated migration data

Since the collection of data is at the heart of migration across the country corridors in question, it is crucial to collect and produce migration data on various gendered aspects and experiences of migrant women in the first place. For instance, given the absence of reliable data on trafficking, there is an urgent need to design a mechanism for the collection of data on cases of trafficking, as well as on the forms, trends and manifestations of trafficking. Such data are vital to the elaboration of informed policy responses to address TIP. Since the Palermo Protocol, an increasing number of member States have developed national data collection systems on TIP, but efforts are still needed to improve data granularity and coverage. The governments in origin, transit and destination countries should enhance their capacity to collect, analyse and share labour migration data from a gender lens, which involves improving data collection for human trafficking cases and disaggregate sex, labour and other forms of trafficking. Often if data are reported disaggregated by one or few characteristics (such as citizenship or form of exploitation), others are not contemplated. The data should be disaggregated not only by sex but also by gender. The lack of such gender-sensitive data stands as a barrier to formulating gender-sensitive policies across all policy areas. At the same time, there should be policy and legal provisions in place that ensure the privacy and confidentiality of the data. In the destination countries, there should be a firewall (that is, a barrier that protects privacy) between access to social services and the judicial proceedings of the victims. Since the experiences of migration, needs and challenges are closely linked with the sex characteristics and gender identities of migrants, in addition to sex-disaggregated data, it is important, when possible, to collect data on migrants with diverse gender identities and their diverse experiences of migration. In particular, migration data on migrants with diverse SOGIESC are rarely disaggregated based on their specific needs and challenges (Hennebry et al., 2021). Equally important is to develop collaboration between origin, transit and destination countries when it comes to data production and sharing. Additionally, it is essential to collect data on migratory routes and corridors, trends, migration laws and policies, migrant profiles, diasporas and other issues – all disaggregated by gender and sex.

As SDG 17.18 aims to “increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts”, collecting data on the gendered experiences of women migrants is necessary (ibid.). A gender-responsive approach should be mutually reinforcing between data and migration policy. This means that a gender-responsive policy approach promotes the production, analysis and use of migration data to enhance the gender-responsiveness of policies and governance (ibid.). As key guiding principles of the Global Compact for Migration, the whole-of-society and whole-of-government approaches are also important to data collection, sharing and use. The whole-of-society approach entails the involvement of relevant academics and CSOs in data collection processes, as well as engagement and relationship-building with local communities to encourage participation, establish dialogue and

incorporate perspectives in data collection processes – and also ensure that women and people with diverse gender identities are represented. Of particular importance is inclusion of civil society and voices of women and people with diverse SOGIESC in data production and collection.

5.2.2. Formulate evidence-based gender-responsive policies

Producing and collecting quality sex- and gender-disaggregated migration data, which represent migrants of all genders, and using such data to inform and improve migration policies, will enhance gender-responsiveness in migration data and policy (including legislative) processes. Such a dynamic relationship between data and policy will produce positive outcomes for all. It is necessary to collect data for developing evidence-based policy that is sensitive to the challenges of women migrants. Women migrant workers face different needs and realities throughout the migration cycle, including the manner of their recruitment, the feminized sectors in which they tend to work, and the way that their remittances are sent and spent. It is necessary that the laws that govern migration respond to the distinct needs and priorities of women and girls. The Convention on the Elimination of All Forms of Discrimination against Women and its General Recommendation no. 26 on women migrant workers provide a strong framework to support the formulation of gender-responsive, rights-based migration policies. General Recommendation 26 para. 23 provides that Convention and General Recommendation 26 should be used to develop policy, based on equality and non-discrimination, that regulates and administers all aspects and stages of migration in a manner that facilitates access to opportunities for women migrant workers to work abroad, promoting safe migration and ensuring the protection of their rights.

5.2.3. Domesticating international legal provisions and norms taking gender into consideration

It is critically important for the countries of origin not only to align their labour laws and regulations with the existing international human rights obligations, including the right to health and the right to social protection, but also to ensure that they are implemented on the ground without any gender discrimination in alignment with the the Convention on the Elimination of All Forms of Discrimination Against Women that seeks lasting solutions for gender-based discrimination and exclusion. Given that the analysis of the data reveals that the legal instruments, specifically pertaining to trafficking and smuggling, in the origin, transit and destination countries are yet to fully align with the international legal documents (such as Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children), there is a need for the national legal frameworks to fully comply with the international laws, which requires the member States to prevent and combat TIP. Any amendments in legislation should have a gender-sensitive approach that ensures the provisions of compensation and effective remedies for trafficked women and girls while putting in place stable institutions that can implement those legal provisions on the ground. In designing, implementing and assessing policies and programmes to prevent trafficking, the Convention requires member countries to promote a rights-based approach and to use a gender

mainstreaming and child-sensitive approach. Likewise, the countries of destination should ensure that they abide by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, which protects the human rights of migrants in accordance with the principle of equality among all persons, and in turn, guarantees the access to human rights regardless of women migrant workers' regular or irregular immigration status.

5.2.4. Create regular migration pathways

Creating regular pathways that are accessible to women is a key tool for the prevention of both smuggling and trafficking. Access to regular labour migration pathways for women migrants that are safe reduces the demand for smugglers, and the opportunities for traffickers to intervene in women migrants' journeys. Mechanisms such as bilateral migration agreements can facilitate cooperation between origin and destination countries around managing labour flows across borders and break the cycles of irregular migration and exploitation. Equally important is for such bilateral agreements to attend to the gendered realities of women migrant workers in both origin and destination countries. For example, recognizing the lack of labour rights protection in sectors where women migrants are concentrated (that is, domestic work). It is crucial for origin and destination countries to enter into gender-sensitive or responsive bilateral agreements and effectively implement them on the ground. To be truly responsive and guided by gender equality perspective, such agreements should ensure non-discriminatory access to pathways, as well as access to rights and social protection for women migrant workers across sectors. In addition, the development and enforcement of social security agreements (bilateral/multilateral) to ensure social security coordination is needed, as well as the inclusion of social security provisions in existing and new BLAs or memorandums of understanding.

Further, such agreements should align with the ILO General Principles and Operational Guidelines for Fair Recruitment. It is necessary for both the origin and destination countries to provide a regular and safe migration process for both men and women, to enable them to contribute more effectively to the socioeconomic development of the ECOWAS region and the African Union. At a national level, governments must adopt policies that ensure equality of treatment or the establishment of national social protection floors to extend social protection to women migrants and their families.

5.2.5. Regulate recruitment systems in gender-sensitive ways

The lack of access to reliable information about legal channels and terms and conditions of work, heightens women migrants' vulnerability to unscrupulous recruitment agents and traffickers and puts them at risk of physical, emotional and sexual violence. The countries of origin should create transparent, accountable and accessible labour recruitment and admission systems for women migrant workers, based on clear legislative categories and immigration policies that are harmonized with labour laws. This also involves preventing the situations where recruitment

agencies charge unnecessary fees, putting extra financial burden on women migrants. It is necessary not only to effectively regulate employment agencies but also to make their services available and accessible for women migrant workers. Equally important is to ensure provisions on written, understandable and enforceable employment contracts and implement them. Such contracts should be in a language that women migrant workers can understand, recognizing the need for translation to a variety of languages and addressing literacy barriers.

5.2.6. Protect the rights of both documented and undocumented women migrants

As part of gender-responsive approach to prevention of labour and human rights violations, including trafficking, the rights of both documented and undocumented migrant women should be protected, in particular by respecting their freedom of assembly and association and their rights to form or join trade unions (United Nations, 2020) and access to justice. Policy instruments must also ensure women migrant workers' access to social protection, as well as social inclusion as a means of both prevention and response to situations of extreme exploitation. Early support is needed for victims, and potential victims, aimed not only at recovery but also long-term social inclusion through education, training, alternative employment and family reunification (ibid.). Migrant women confront numerous barriers in accessing public services due to discrimination in policies as well as in practice, in part because they are often concentrated in informal employment, especially domestic service and the care sector. There are a range of positive actions that can be taken to address these barriers, including the creation of supportive legal and regulatory frameworks, designing and implementing the policies and services in ways that respond to the needs of migrant women. In addition, ensuring the separation of service provision from immigration enforcement activities is also key; this is particularly important so that undocumented women migrants are not afraid to access services.

Particularly important is for both countries of origin and destination to ensure women migrants' rights and the ability to access justice in their legislation and policy regimes. Such provisions should comply with the principle of non-refoulement and assess gender-specific risks faced by the victims before making any decision on return. The policy/legal provision decriminalizes sexual services and attends to the rights of the victims instead of treating it as a crime. Both origin and destination countries should increase efforts to prosecute traffickers while guaranteeing fair trial rights consistent with a human rights-based approach to criminal justice, and to establish the necessary legal framework and procedures to ensure that victims and witnesses are protected. They should ensure that women migrant workers who have been trafficked do not get punished for acts they commit as a result of trafficking (or forced labour). In some cases, as a result of their exploitation, women migrants may be coerced or forced into criminal activities.

To tackle these challenges, origin, transit and destination countries can work collaboratively to implement identification and response systems with specific tools and protocols for gender-responsive approaches to identifying VOTs and for training relevant law enforcement

agencies, especially police, immigration and labour inspectors. Such training should enhance their understanding of gender dimensions of trafficking, gender discrimination and labour migration policies and rights of migrants and strengthen their capacity to identify trafficked persons quickly and accurately, and to make referrals to appropriate gender-responsive services. The contribution of and collaboration with CSOs and international organizations are crucial partners in developing such training and response frameworks for countering human trafficking. In this regard, immediate steps should be taken to establish the necessary legal framework and support for CSOs working on providing assistance, including counselling services to victims. Assist through training and capacity-building sessions for the integration of migrant women. Support associations and networks of migrant women and enhance their voices in national and regional policy dialogue processes.

5.2.7. Respond to gendered challenges during return, recovery and re/integration

Given that gender shapes migratory experiences, women migrants may face specific gendered challenges and problems throughout their migration cycle, gender considerations should be mainstreamed into all interventions. Given their concentration in unprotected sectors such as domestic work, women are likely to face greater discrimination in workplaces and the greater likelihood to be subject to trafficking and forced labour. Some women workers may return prematurely because of pregnancy testing practised in some countries of destination. Reintegration programmes should be fully inclusive, covering all migrant workers irrespective of sex, age, skills and migratory or return status (such as irregular status or deported). Planning for return and reintegration should start before migration and continue during employment (ILO, 2015). Migrants who suffer recruitment abuses, carry high debt burdens and/or were provided with misleading information prior to departure cannot effectively realize their migration objectives. Similarly, abuse and exploitation in the workplaces and discrimination in the destination country will seriously undermine the capacity of migrant workers to save or to return in conditions of dignity.

It is necessary for all interventions to incorporate the voice of returnees, where appropriate, through consultation and participation with returned workers and their associations. Dialogue between host and home countries needs to be based on mutual respect and acknowledgement of each partner's interests and capacities. Reintegration therefore begins in the destination country. Return and reintegration policies can benefit enormously when the inherently transnational character of return and reintegration policies is considered. It is crucial that the governments should support and enhance the representation of women within the governing bodies and institutions and ensure that the voices of both documented and undocumented migrant women are heard. Given the gendered challenges of women migrants, the governments in origin, transit and destination countries should ensure that the officials are properly trained and sensitized about gender-specific vulnerabilities of women migrants intersecting with other forms of marginalization based on age, nationality, religion and others. The regular sensitization of policymakers, executors

and practitioners should be provided in legislation and strictly implemented. The governments should support the capacity-building and training of consular staff in countries of destination to deal with the gender-specific challenges faced by migrant women in the destination countries and also ensure that the consular protection is provided in a way that attends to the specific needs of migrant women.

5.2.8. Combat the gendered root causes

Since the lack of decent work and gainful employment in the origin countries is a root of trafficking and smuggling of women and girls, in the first place, they must have access to their right to education and attainment of employable skills and training without gender discrimination. Concurrent measures should be taken to address social exclusion, poverty and inequality and discrimination based on gender and other forms of oppression and intersectional factors. In their anti-trafficking actions, the origin and destination countries should address the socioeconomic factors that create an environment conducive to trafficking activities that fight against unemployment and poverty. In addition to jobs, the governments should facilitate and provide access to finance for women and girls to develop their entrepreneurship and enable them to develop income-generating projects (ibid.).

5.2.9. Enhance women's and girls' capacities through an equal opportunity for education and training

In the spirit of the 2030 Agenda and SDG 4, which stresses on the right to education as fundamental to achieving sustainable development, the governments should formulate and implement proactive gender-sensitive policies and practices aimed at breaking barriers to and increasing access to education for women in typically male-dominated fields (such as engineering and math). Doing this is key to tackling the inequality legacies from these gendered skill traps. Supporting participation in the labour market, including access to information, education, training, skills recognition and finance are key actions governments can take to break gendered barriers for women. For example, skills mobility partnerships that enhance women migrants' skills and career prospects while meeting skilled labour shortages in destination countries and contributing to development in the countries of origin. However, to make them successful as tools for promoting gender equality, they must specifically aim to address gender inequalities that structure the migration trajectory of women migrants at all stages of migration (from access to pathways, recruitment, employment and integration and return) – and they must specifically involve women migrants and CSOs that support them, in their development and implementation. Developing targeted skills mobility partnerships for and by women migrants can remove significant barriers to accessing safe and regular migration pathways, while also contributing to the SDGs. Some such inter-State bilateral exist within the corridors studied under this research, but women, since they lack formal and recognized education and skills, cannot migrate, accessing these formal migration pathways and end up resorting to informal channels and routes. Indeed, involving CSOs and women's rights

organizations in designing and implementing such initiatives (as well as other policy/laws related to preventing and combating trafficking, slavery, forced labour and exploitation) are key to the success and sustainability of such efforts.

Building women and girls' capacities through education and training is crucial in the first place. Gaining education and skills equips them to compete for employment in the local/national labour market as well as internationally. This would also mean that women would not have to migrate out of economic desperation and depravity, making migration a choice. Even when they migrate, the skills and training that they have gained in the countries of origin will enable them to be employed in formal and regulated sectors where their human and labour rights get protected. Further, access to education and skills acquisition that goes beyond gendered work in gendered sectors (such as domestic care work, cleaning and hospitality) can make inroads towards addressing deeply rooted structural inequality and gender discrimination that undervalues this work and devalues the women workers performing it. This involves empowering women migrants in the first place by providing them with the equal opportunity of education and training so that they could migrate, if they chose to do so, as skilled workers in more formalized sectors with decent work in Egypt, Morocco and Tunisia. Doing this would also enable migrant women to be easily integrated in the destination countries, and if they choose to return, they can do so with skills and become reintegrated into and contribute to the origin countries and their economic development. Policies and laws in origin and destination countries must promote and facilitate skills development for girls and women by guaranteeing their right to education that entails free and compulsory school education, including technical and vocational education for all women and girls (UNESCO, 2020).

5.2.10. Build synergies, partnerships and cooperation

Since there remain contradictions and inconsistencies across the labour laws, migration policies and the legal instruments related to trafficking and smuggling, building multisectoral, multi-scalar and multisited synergies is crucial. It is the shared responsibility of both origin and destination countries to protect and promote the rights of women migrant workers and their families in the entire migration process. At the same time, there is a need for inter-agency cooperation working at different levels of the government and in some cases, there is a need for coordination between agencies of origin and destination countries. The efforts to fight against trafficking and/or smuggling of women and girls needs collaboration with law enforcement since smuggling is an act of crime and anyone, not necessarily organized. In addition, collaboration should involve CSOs, such as in providing assistance, including counselling services to victims. What is crucial is to ensure the involvement of women's rights organizations and gender experts in ministries and all other agencies and sectors affecting women migrant workers and pertaining to their issues.

It is necessary to bring migration policies in line with the Pan-African ideal and strengthen synergies with all NGOs working in migration, trafficking and smuggling issues, as well as engaging with donors and government senior policymakers in dialogues about the challenges to establish and strengthen the already existing migration-related coordination mechanisms – and to take advantage of the United Nations Network on Migration system to facilitate the Global Compact for Migration in collaborative and coordinated ways. The States should continue to maintain close cooperation with the relevant United Nations agencies and international organizations, including UNHCR and IOM, for the safe return of trafficked victims in their country, with due regard for the need, if applicable, of international protection of the victims. Further measures should be taken to ensure that VOTs with international protection needs are properly identified and referred to the asylum system, when appropriate.

It is crucial to foster coordination within and between States, facilitating the sharing of good practices between African countries taking part in the migration statistics and skills recognition programme (Côte d'Ivoire, Morocco and Senegal). Streamlining and calibrating labour migration pathways around gender equality goals, between countries of origin and countries of destination, can further prevent gaps, as women migrant workers may fall between systems in countries (such as social protection systems) that compound rather than counter gender inequalities. Additionally, coordination agreements can facilitate irregular migrants to obtain documents and access training and skills. Skills-based migration – the movement of skilled migrant workers for the purpose of employment at their skill level in the country of destination – requires focused cooperation between all stakeholders, including States, employers, unions, educational institutions and communities, local governments – and the active involvement of migrant workers. Under a skills mobility partnership, training may be dispensed in the country of origin or destination, or even in a third country, and the trainees acquire skills that are recognized and valued by both parties (IOM, 2019f). Such cooperation agreements can facilitate entrepreneurship training and funding to immigrant women and assist them to engage in income-generating activities.

Conclusion

Gender discrimination and lack of access to education and employment in countries of origin are key drivers of migration for migrant women. However, these same drivers also heighten the likelihood that women will face barriers in accessing regular migration pathways, such as lack of sufficient funds to pay for visa application fees or lack of eligibility for migration pathways due to insufficient skills, credentials or documentation. This catch-22 means that truncated, limited or blocked mobility pathways represent the gendered starting points of migration for many migrant women. To navigate these barriers of moving to another country for work, many women may need to seek assistance from a range of private intermediaries, such as family or community members, and/or recruiters and labour brokers, all of which may engage in smuggling. There is a wide spectrum of legality and formality across these migration intermediaries: while some are legitimate and legal businesses (such as immigration consultants), many are informal (such as family networks), and some are illegal enterprises (such as organized crime). Often there are grey areas in between these broad categories, where exploitation and abuse can propagate. When family or community networks are relied upon to fund or facilitate migration, this is accompanied by significant changes in power relations, often with women indebted to male community leaders or heads of households. In some cases, perceived familial trust bonds or norms of reciprocity, where what is thought to be a trustworthy relative turns out to be an individual seeking to profit from brokering irregular migration (that is, smuggling) or work. Further, because of the patchwork of regulation of recruitment practices in the region (which is reflective of a larger global reality), what may seem a legitimate business or may in fact be a broker for traffickers. Safely navigating this quagmire of intermediaries alongside complex legal and bureaucratic migration systems is challenging for all potential migrants, and particularly so for those with lower levels of education and income. All this, before migration even begins.

Indeed, precarity and vulnerability to exploitation starts well before migration, since in origin countries, women tend to be employed in jobs and sectors with a high degree of informality. Given pervasive gender discrimination and inequality in access to education, women lack access to necessary skills and training to gain employment in formal sectors in countries of origin. In addition, social stigmas and gender stereotypes feed into policymaking and serve as barriers to women's access to employment. Left with no option of employment at home and with limited

mobility and opportunities to ensure their livelihoods through formal employment, many women resort to informal migration channels, which heightens their risks of exploitation, debt bondage, forced labour and trafficking, as well as exposures to a myriad of health risks. Further, resorting to such means to navigate blocked or limited migration pathways leads to the likelihood of encountering human rights violations, exploitation and trafficking along their migration routes, in countries of origin, transit and destination.

Trafficking and smuggling among women and girls in the region mainly result from not having the necessary education and skills to access formal employment and migration pathways. Indeed, there are a range of factors that contribute to trafficking of women along these corridors, including the lack of access to legal and regular migration pathways (in part due to gender-based barriers to accessing resources, documentation, credentials and skills), SGBV and gender discriminatory socioeconomic systems and practices. The lines between trafficking and smuggling, as well as between legality and illegality, can be blurred, when in some cases, women who have been trafficked or who have been in conditions of extreme exploitation (such as forced labour) may turn to smugglers seeking their services to escape or attempt to move irregularly across borders for protection from traffickers or abusers. Such scenarios underscore the complex and intersecting challenges of labour and human rights protection for women migrant workers in the region, and the imperative of adopting a human rights and gender-responsive response.

Once in countries of destination, gaps in labour laws and regulatory frameworks related to employment heighten risks for women migrant workers, who are likely to be concentrated in informal work (Elabor-Idemudia, 2003), and in sectors that lack sufficient regulation and ensure full labour rights (such as lack of collective bargaining or workplace safety protections), such as domestic care work or the service sector, where they face heightened risks of precarity and income insecurity, exploitation and abuse, often without legal recourse or legal protection. As a result, migration in many contexts, instead of enhancing women migrant workers' economic empowerment, further augments gender inequality and fuels exploitation and GBV. For women migrant workers in the corridors identified in this report, migration often means heightened risks of labour exploitation and human trafficking, as well as SGBV in countries of transit and destination.

In the region, there have been some notable steps towards enhancing protection for migrant women's rights, such as in Morocco with Law no. 103, which criminalizes all forms of gender-based discrimination, including public harassment, sexual assault and cybercrimes. Morocco's open-door migration policy, particularly the operation of mass regularization of more than 50,000 irregular migrants, including all irregular women migrants, was decided by His Majesty Mohamed VI in 2017. Egypt's Act no. 82 of 2016 (Egypt, Government of, 2016), pertaining to irregular migration and smuggling of migrants, provides a glimpse into the tension around prevention and deterrence – and the way gender is embedded in both. Under this law, it is a crime to smuggle, attempt to smuggle or facilitate the smuggling of migrants, and the penalty imposed is more severe in the case of women being smuggled stating: "If the smuggled migrant was a woman, a child, an incompetent

person or a person with a disability” (ibid.) While such approaches can serve as a deterrent of trafficking of women and girls in these corridors, the narrative reinforces the vulnerability of women and girls, rather than a gender equality perspective. Further, criminalization of smuggling may do more to bolster trafficking, as intermediaries go further underground in order to facilitate migration. Indeed, only legal and policy responses that integrate the voices of migrant women and civil society, accompanied by broader national and regional well-funded sustainable mechanisms for linking policy domains with the goal of achieving gender equality – will address the root causes of exploitation and trafficking of women migrants in the region. To address the root causes of trafficking and smuggling requires systemic-level change that opens doors for women to access skills and credentials, making mobility a choice rather than a last resort. It requires consulting migrant women and civil society to better understand their experiences and better respond to their gendered realities with policies and programmes that are aimed at addressing gender inequality. It requires gathering and making use of gender-responsive data and information so that programmes and policies are driven by evidence and held to account when women migrants fall through the cracks, experience discrimination, violence or exploitation. Most importantly, without enhancing access to skills training and regular labour migration pathways for women, smuggling will thrive due to demand, and trafficking will flourish.

APPENDIX A

Key informant interview guides/questions

Key informant interview guides

KIIs will be carried out by national consultants with NGOs, governmental and international organization representatives. For additional guidance on conducting interviews, including [Generic_PrimaryParticipant_InformationLetter_and_InformedConsentStatement_TEMPLATE.docx](#), see: [KII guidance and instructions](#), as well as the guidance note [Guidance note for national consultants](#). Below are a series of potential semi-structured interview questions for these groups that can be modified for use in specific contexts.

A. Key informant interview protocols

Semi-structured interview protocol: Non-governmental/international organizations

- (1) Please describe your organization and its role. Specifically, what role does your organization have with respect to labour migration? Does your organization play a role with regard to trafficking or smuggling? Does your organization have a particular role/focus on women migrants? Where and with whom does your organization operate? What is your mandate? How is your organization funded/maintained? What is your role in your organization?
- (2) In what ways does your organization cooperate/engage with other stakeholders or organizations (such as government, NGOs, civil society, migrant organizations, health care and others) in relation to women migrants? Has your organization provided testimony or written submissions to any official processes pertaining to women migrants or labour migration? Has your organization been consulted in the formation or monitoring of policies related to labour migration, trafficking or smuggling?

- (3) Tell me about the women migrants you work with. What are their characteristics (that is, country of origin, age, marital status, do they have children, travelling alone, level of education, skill level and work experience/sector of employment). What are their primary purposes for migration? What have been their primary migration routes? Did they have help from a family or community member, organization or individual (including recruiters, brokers or smugglers)? Do you have data, testimonials or statements from migrant women or reports you can share that include their inputs or perspective?
- (4) Describe the extent to which trafficking of women and girls is a prevalent problem in _____? Please provide details and information on the nature and scope of this problem (such as countries of origin, sectors and others)? What are the most significant factors that heighten risks of trafficking in persons in this region? How does this vary by gender?
- (5) What factors contribute to (that is, cause) smuggling in this region? How does this vary by gender? Why would women employ the services of a smuggler?
- (6) Describe to your knowledge the situation facing undocumented women migrants in this region. What do they experience? What legal protections do they have? What access to services and supports do they have?
- (7) What support are provided to women who have been trafficked? What support does your organization provide? Can you describe the legal process when a woman has experienced trafficking? How does this differ in situations where migrant women have used a smuggler/been smuggled?
- (8) Are women migrants provided gender-sensitive information regarding their rights and access to services during migration? Are they providing information about risks of exploitation/trafficking? Are they provided information about potential risks associated with unregulated/unlawful recruiters and other agents that may facilitate migration? Are they provided information about immigration laws (including those relating to smuggling) and the legal consequences for contravention of them?
- (9) What services are women migrant workers eligible for (either provided by governments or CSOs/NGOs) in relation to immigration/employment counselling or barrier-free assistance with securing employment abroad or related supports)? Who provides/funds these services and what are their limitations (such as services provided only in specific sectors)? Do women face any discrimination/barriers in accessing any of these services? Are these services sector specific or gender specific?
- (10) What are the biggest challenges in providing support to irregular migrants and to women migrants who have been trafficked? Do you evaluate or collect data on the services or supports for irregular women migrants or trafficked women migrants? (Please describe.)
- (11) What needs to be done to better support women migrants' economic empowerment and integration? What is the role of NGOs, international organizations and governments?

- (12) What needs to be done to prevent trafficking and smuggling? What role do NGOs, international organizations and governments have to play?
- (13) How has COVID-19 changed any of the above? How has COVID-19 impacted women migrant workers? Have there been any specific COVID-19 related laws or policies implemented that have impacted women migrant workers (such as impacting their mobility, access to services including vaccinations, protection of rights)?

B. Semi-structured interview protocol: Government

- (1) What government department/agency do you work for? What is your role in the agency, and what does it do in relation to labour migration, trafficking and smuggling of people?
- (2) Describe women's labour migration in the region (please provide data). What are the key characteristics (such as skills, country of origin, sectors and others) or women migrants? What is the current situation of trafficking in your country, and also in the region? Please provide the characteristics of regular migrants and irregular migrants (such as by country of origin, age, gender, education level and purposes of work/sector)? How do these vary with respect to trafficking? Are there specific groups, areas or sectors where trafficking is more prevalent? What are the methods and route of trafficking (such as routes, key actors, areas and others)? Can you also provide the same details with respect to smuggling?
- (3) What policy and legislation pertaining to the areas of labour migration do you have in the country? Do you have separate legislation for dealing with trafficking? For smuggling? Do you see any interconnection between them? To your knowledge, are these policies in compliance with international human rights and labour law (such as the Convention on the Elimination of All Forms of Discrimination Against Women)?
- (4) What steps have been taken by your government towards creating regular pathways for women to migrate? Are there also pathways to permanent residency for labour migrants? Please describe the policies and how they function. Are there any efforts being made by your country to counter trafficking? To counter smuggling?
- (5) When trafficked and/or smuggled people are identified, how does the government respond to them? Can you briefly walk me through all the legal processes that follow? In these processes, what supports and services are provided, and by whom and for whom?
- (6) Is there a need to recognize and respond to the specific needs and challenges of trafficked women? Are there any conditions for trafficking victims to be eligible for receiving the support and services provided by the government? (Probes: Are they provided with safe, confidential, psychosocial counselling and legal assistance? Interpretations in situations where they speak a different language? Are they provided with housing? and others.)
- (7) Does the existing legislation provide legal pathways for irregular/trafficked/smuggled people to obtain legal temporary or permanent residency/regular status? In cases where the court denies residency, can they make a legal appeal to the upper court?

- (8) What legal provision are there in terms of return and reintegration of trafficked women specifically? Are there any provisions or programmes that specially address the problems of stigma, racism, xenophobia and exploitation that women migrants in particular have to face?
- (9) What structures or mechanisms are in place to support programmes, policy implementation or harmonization in relation to labour migration and other policy domains.
- (10) To what extent are funds committed to ensuring access to legal protection and services for women migrants? Are funds specifically earmarked for women migrants with irregular status or in vulnerable situations? Are funds and resources committed to carry out a gender analysis or to enhance gender-responsiveness?
- (11) What role have women's organizations, civil society and community organizations working with women migrant workers played in the formation, evaluation or implementation of relevant policies?
- (12) How has COVID-19 changed any of the above? How has COVID-19 impacted women migrant workers? Have there been any specific COVID-19 related laws or policies implemented that have impacted women migrant workers (such as impacting their mobility, access to services including vaccinations and protection of rights)?

APPENDIX B

Institutional mapping tool

Objective: Conduct mapping of legal, normative and institutional frameworks including government, non-government actors and international organizations (including United Nations agencies) working in the field of migration, trafficking, smuggling, labour and employment and gender equality with specific focus on migrant women. This mapping is meant to integrate the legal and policy analysis with the information obtained by KIs and through secondary sources, in order to provide a more holistic analysis of the system, with an emphasis on implementation and policy coherence. Three key objectives of this work are as follows: (a) identify and map the key institutions and actors responsible for implementation across the legal regimes and key regional policy frameworks (identified in the legal/policy analysis); (b) examine the procedures/processes are in place to ensure access to human, labour, economic, social, political and cultural rights; and (c) identify strengths and limitations of the extent to which the system supports migrant women's empowerment and integration, and prevents trafficking and other forms of exploitation and harm.

Key steps for institutional mapping:

- (1) Provide a list/representation of the following (provide links and hard copies in the folder where possible). Also, if possible, create a graphic representation of the legal normative and institutional linkages:
 - Relevant legal frameworks (these are the policy and legal frameworks to be analysed with: [Legal/Policy analysis worksheet revised](#));
 - International organizations and NGOs;
 - Government levels, agencies and departments;
 - Institutional mechanisms;
 - Inter-agency referral systems;
 - Others.
- (2) With reference to the questions listed below, provide a succinct assessment of the system, with reference to key policies, institutions and actors in terms of coherence and gender-responsiveness. In particular, does the system support women migrant's economic empowerment and integration? Does the system prevent or mitigate risks of trafficking and protect the rights of women migrants in vulnerable situations?

From a gender equality and women's rights perspective, use the questions below to identify strengths and synergies, deficits and contradictions – across these legal and policy regimes and the organizations and actors that implement them. Where possible, demonstrate if/how discriminatory provisions and/or a lack of coherent, gender-responsive approach: (a) contributes to trafficking, smuggling, exploitation, abuse of documented/undocumented women labour migrants; and (b) adversely impacts the human, socioeconomic and political rights and integration of trafficked, smuggled or documented/undocumented women migrants at different stages of

migration (pre-departure, transit, on site, destination, return). This will include impacts on women migrant worker's empowerment and integration (including access to human, labour, economic, social and cultural rights) in relation to these thematic areas:

- (a) Access to migration paths;
- (b) Experiences of pre-departure and transit;
- (c) Access to employment and income, labour rights and decent work, and impacts on economic rights and livelihoods;
- (d) Access to services (education, health, housing, water, food and sanitation) and impacts on well-being and health and social and cultural rights;
- (e) Legal protection and rights (mobility, harm, violence, exploitation, human and political rights and others);
- (f) Access to justice;
- (g) Experiences of repatriation/return/reintegration;
- (h) Other aspects of migration (such as COVID-19).

Assessments should provide evidence from KII or with reference to policy/legal instruments, programmes/initiatives, government documents, reports from international organizations/NGOs and any other secondary sources. Key questions to be addressed by the institutional mapping are as follows:

- (1) What relevant legal frameworks exist? Make a list with references.
- (2) Referring to the legal/policy worksheet, what are the key gaps and inconsistencies and incongruencies, contradictions, across the legal frameworks?
- (3) To what extent are the legal frameworks being implemented in a gender-responsive way on the ground? Do specific groups of migrant women fall through the cracks (such as undocumented)? Do these legal frameworks support gender equality and women's empowerment? Do they support women migrants' access to rights (human, labour, economic, social, political, cultural)?
- (4) What ways do the legal frameworks and their implementing organizations reference/speak to each other in the text/in practice?
- (5) What relevant policies/SOPs are available regarding the roles of each stakeholder?
- (6) Who are the stakeholders and what are their roles (such as NGOs, international organizations, government levels, agencies and departments)?
- (7) What is the level of inter-service/department/stakeholder coordination (what are the key challenges or inconsistencies)? Are voices/perspectives missing? What are the gaps?
- (8) What are the referral mechanisms and SOPs in place?
- (9) How are these services or systems sustained with resources and budgets? Do they employ gender-based or responsive budgeting?
- (10) Are there monitoring and evaluation of above mechanisms, services and institutions from a gender perspective (such as gender-based analysis)?

- (11) Are there mechanisms to support training and capacity-building on migrant women's rights and gender-responsive policy and service provision? Do organizations receive or carry out gender-sensitivity training?
- (12) Do women migrants/organizations participate in any of the above?
- (13) How do these organizations/institutions and procedures specifically support women migrant's empowerment and integration? Are there examples of good practices or coordination efforts that support women's empowerment and integration?
- (14) In what ways does this system create or exacerbate, address and mitigate risks of exploitation or human rights abuses, or heighten exposure to situations of exploitation, abuse, violence, trafficking for women migrants?
- (15) Overall, looking at the way the actors, institutions and mechanisms work together, provide a brief assessment of the extent to which the system is gender-responsive (that is, does it respond to the needs of women migrants and support gender equality) (see: Conceptual framework)?

APPENDIX C**Guidance note for national researchers****A. General information**

The Google Drive folder for this project contains a number of documents that are intended to provide guidance, and to support the work of national consultants and the broader goals of the project. These resources and materials are meant to strengthen the validity, commensurability and consistency across the country analyses. They are also meant to be used and tailored to each context as appropriate. They are also meant to inform and structure both the national and international analyses. The Google platform enables modification and inputs into these tools, and there is a separate folder for national consultants to share materials and information with the international consultant, including draft reports, secondary documents and copies of policies, as well as any transcripts or audio files from interviews where appropriate. The documents can be accessed online, and can be downloaded as needed, providing flexibility to work directly online using these materials or to work offline.

Instructions:

- (1) Click on the Google link provided to access the folder: [UNODC_IOM_UNW_Project resources for national consultants](#).
- (2) All consultants will have access to this same folder to open and download files and resources.
- (3) Make a copy or download each file and move into your own drive.
- (4) Once worksheets or other documents are ready to share, please go to the country-specific folder to upload.

B. Methodological approach

This research adopts a gender equality analytical framework, which places the human rights of women migrants, both documented and undocumented, at the centre of analysis. The project involves the use of two primary methods: legal and policy analysis and semi-structured qualitative interviewing.

There are three broad types of data meant to inform a holistic assessment of the situation facing women migrants in the corridors, to characterize trends, and factors contributing to women migrant's economic empowerment and integration, as well as specific factors that heighten vulnerability to trafficking and smuggling:

- **Policy and legal documents** in each of the countries identified in the key national corridors (such as labour law, migration policy and instruments such as bilateral agreements, anti-trafficking law, gender equality law and others). See below for additional details on how these documents will be used in the policy/legal analysis.

- **Secondary data** can be used to inform a brief situational analysis of women migrant workers, as well as trafficking and smuggling of women migrants in the identified corridors/contexts (such as statistical data, existing reports and reviews). Secondary sources will also provide valuable information to be used in the assessment of compliance (in particular with respect to implementation), gender-responsiveness and coherence of legal frameworks. Secondary sources can be compiled and utilized to develop a situational analysis of labour migration, trafficking and smuggling for each country of study, with documents linked or uploaded into the Google Drive. Documents such as official government reports or documents, as well as United Nations Treaty Body reports, reviews and submissions, particularly for Convention on the Elimination of All Forms of Discrimination Against Women, Committee on the Elimination of Racial Discrimination and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the United Nations Special Rapporteur reports, as well as shadow reports from CSOs can further be used to assist when assessing compliance and gender-responsiveness in practice (that is, implementation).
- KIs will be carried out to assist in the identification of key issues, governance gaps and best practices or examples of gender-responsive approaches and examples. KIs will inform both the institutional mapping and to examine the extent to which policies and laws are implemented in a gender-responsiveness and coherent way that support women migrants' economic empowerment and integration.

B.1. Institutional mapping and policy and legal analysis

A **mapping** of legal, normative and institutional frameworks including government, non-government actors and international organizations (including United Nations agencies) working in the field of migration, trafficking, smuggling, labour and employment and gender equality with specific focus on migrant women will be carried out. Two key objectives of this work are as follows: (a) identify and map the key institutions, actors and policies; and (b) examine the extent to which the system supports migrant women's economic empowerment and integration, and protects the human rights of women migrants in vulnerable situations (with an emphasis on governance gaps or practices that create conditions of vulnerability to trafficking). See more guidance here on [Appendix B: Institutional mapping tool](#).

A **policy/legal analysis** is to be conducted in order to assess compliance with international frameworks (that is, do the laws/policies comply with international law), gender-responsiveness (that is, do the laws/policies respond to the gendered realities and needs of women specifically and coherence across relevance policy domains (that is, do the policy frameworks speak to each other? Address gaps? Produce risks/harm?). The goal of analysing national policy and legal instruments (across a range of legal/policy domains) is to identify the gaps, incoherence and contradictions that lead to the gendered vulnerabilities and challenges that women confront to identify practices and policies that may support the economic empowerment and integration of women migrants.

Analysis will examine the extent to which national legal frameworks comply with the international normative instruments, and, informed by the KIs and institutional mapping, to determine the extent to which policies and laws are implemented on the ground such that they support women's economic empowerment, integration and safe migration. Policies and laws at national levels pertaining to these domains will be analysed based on guidance from international organizations (such as UN Women), international normative instruments pertaining to migration, trafficking, smuggling and women's human rights such as the Convention on the Elimination of All Forms of Discrimination Against Women and relevant General Recommendations (such as General Recommendations no. 19 and 26) and others.

The [Legal and policy analysis worksheet](#) provides a framework for the analysis of national policies and laws pertaining to the following legal/policy domains:

- Employment- and labour-related policies/law (that is, laws related to recruitment, labour law, occupational health and safety, social protection, employment insurance, parental leave and others);
- Migration law and policy (that is, laws related to border security and migration, permanent residency, work permits and bilateral labour migration agreements);
- Trafficking (that is, specific anti-trafficking and recruitment regulations);
- Smuggling (that is, anti-smuggling law or criminal law or policy pertaining to smuggling and recruitment);
- Gender equality law/policy (that is, laws/policies related to gender equality such as pay equity, anti-discrimination, VAW, SGBV and others)

Thematic areas of analysis

Analysis will focus on identifying the sources of gender-based discrimination and violence that may heighten vulnerability of women migrants to trafficking or to smuggling, governance gaps and practices or conditions that heighten situations of vulnerability, as well as the identification of gender-responsive best practices that strengthen prevention and foster women's socioeconomic empowerment and integration. The main objective of this research is to examine the policy and legal instruments in these domains and identify the gaps and fissures that predicate trafficking and smuggling of women, and that heighten vulnerabilities and challenges for the protection of the human and labour rights of women migrant workers.

Specifically, the aim is to pinpoint the policies or laws that support socioeconomic empowerment and integration of women in countries of origin and destination in the migration corridors, and identify gaps or practices that produce or heighten vulnerabilities. Some important thematic areas pertaining to women migrants addressed in this analysis include the following: (a) migration pathways; (b) integration; (c) legal protection and access to justice; and (d) gender-responsiveness.

Indicators in each of the thematic areas are derived primarily from key international legal instruments, with a focus on Convention on the Elimination of All Forms of Discrimination against Women (including relevant General Recommendations no. 26, 19, 35, 38) (see [General Recommendations](#)). General Recommendation no. 26 states obligations in relation to three key aspects: (a) access to opportunities for women migrants workers to work abroad; (b) promoting safe migration; and (c) ensuring the protection of women migrants' rights (see [Making gender-responsive migration laws](#)). The indicators are also based on the following:

- Convention on the Elimination of All Forms of Discrimination against Women and its General Recommendations no. 19; 26; 35; no. 38 on trafficking in women and girls in the context of global migration ([CEDAW General Recommendations](#));
- UNODC and its protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and Protocol against the Smuggling of Migrants by Land, Sea and Air;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990;
- ILO Convention no. 189 (Domestic Workers Convention), 2011;
- ILO Convention no. 190 (Violence and Harassment Convention), 2019;
- United Nations Special Rapporteur on trafficking in persons, especially women and children of 2020;
- Special Rapporteur on the human rights of migrants of 2020;
- United Nations Treaty Body reviews and UN Women gender equality framework;
- ILO/UN Women Checklist to Protect and Support Domestic Workers.

In addition, Convention on the Elimination of All Forms of Discrimination Against Women [General Recommendation no. 38](#) on trafficking in women and girls in the context of global migration states on para. 13 that “[c]ombating trafficking in women and girls in the context of global migration requires engagement of the larger protection framework stemming from international humanitarian law, refugee law, criminal law, labour law and international private law, the conventions against statelessness, slavery and the slave trade and international human rights law instruments.” Indicators were further elaborated using the report by the United Nations Special Rapporteur, which emphasized the identification of “structural features that should be detected at an early stage and on the understanding of vulnerability as shaped by discrimination and by the inability of a person to gain access to social protection and effective remedies” (see United Nations, 2020).

Coherence across policy domains will be further assessed by examining the legislation (that is, looking for specific mention of other policies or legal frameworks, such as migration law clearly linking to labour law in a clause or passage of the text of the law), as well as the other official sources, secondary sources and KIs, and based on the institutional mapping (see [Appendix B: Institutional mapping tool](#)).

For each thematic area, analysis will identify whether the policy or programme considers the needs, circumstances and realities of women (that foster integration and economic empowerment), and whether there are gaps or if the policy or law (or the lack thereof) produces harmful outcomes, with an emphasis on those that create conditions of vulnerability to trafficking.

B.2. Secondary sources

Secondary sources can be compiled and utilized to develop a situational analysis of labour migration, trafficking and smuggling for each country of study, with documents linked or uploaded into the Google Drive. Documents such as official government reports or documents, as well as United Nations Treaty Body reports, reviews and submissions, particularly for the Convention on the Elimination of All Forms of Discrimination Against Women, Committee on the Elimination of Racial Discrimination, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the United Nations Special Rapporteur reports, as well as shadow reports from CSOs can further be used to assist in the analysis of these frameworks that will provide valuable evidence when assessing compliance and gender-responsiveness in practice (that is, implementation). For example, noting when States have officially ratified conventions, or indicated declarations and reservations, refer to OHCHR for verification, as well as to review treaty body reports (and the list of issues prior to reporting) where appropriate, as well as secondary documents and KII to inform analysis.

See: [List of issues and questions on the United Nations Treaty Body Database](#) and [Concluding observations on the United Nations Treaty Body Database](#). Some secondary sources have been compiled and will be added to by the international consultant here: [Reference materials](#).

B.3. Key informant interviews

KIIs will be carried out in order to ensure accurate interpretation and analysis of legal frameworks, and to provide insights from the perspective of key stakeholders, such as CSOs working with migrant women that can inform the identification of governance and service gaps, gendered causes and outcomes, and factors that heighten situations of vulnerability for women migrants. See suggested interview protocols here: [Key informant interview guides](#). KIIs must be handled with attention to Research Ethics and Code of Conduct (see [KII guidance](#)). KIIs will be carried out with these primary groups, with attention to representation across variability in these groups:

- (a) Civil society, community-based organizations and NGOs working with trafficked or smuggled women, or those in irregular status/vulnerable situations;
- (b) Relevant international organizations and government representatives.

APPENDIX D

Guidance for conducting key informant interviews and research ethics and code of conduct

Guidance for conducting key informant interviews

Source: Violence against women and girls data collection during COVID-19.

The KIIs may involve interviews with institutions, organizations and individuals with direct access to smuggled/trafficked/irregular migrants, smugglers/traffickers and/or information pertaining to them. These interviews must be handled with attention to Research Ethics and Code of Conduct outlined below. Where feasible and safe, particularly in the context of COVID-19 pandemic, interviews may be conducted in person, but also by phone, Skype/Zoom, email, postal correspondence or any other useful means. The interviews are semi-structured and open ended, based on a set of guiding questions, topics and guidelines ([Key informant interview guides](#)). With the informed consent of participants, interviews will be voice-recorded, or, if the interviewee prefers not to be recorded, notes will be taken.

All interviewees must receive an informed consent letter, based on the sample interview cover sheet template provided, clearly stating the level of anonymity requested. See: [Informed consent template.docx](#).

Below outlines the code of conduct and research ethics principles that all researchers must adhere to when interacting with research participants. This is followed by some general guidance and tips for conducting qualitative interviews.

A. Research ethics and code of conduct

Care must be specifically taken when carrying out KIIs with or pertaining to vulnerable populations to ensure that research participants will face **no harm** from participating in this study, and no negative consequences to their health, personal security, or labour and human rights. Interview procedures and use and storage of data must be consistent with principles of ethical research with human subjects.

Ethical social science research aims to:
• Respect the dignity, integrity, safety and well-being of all those involved in the research;
• Protect vulnerable individuals;
• Minimize harm and maximize benefit;
• Ensure honesty and transparency towards research subjects;
• Respect individual autonomy and obtaining free and informed consent;
• Ensure privacy and confidentiality;
• Promote justice and inclusiveness;
• Share the benefits with disadvantaged populations;
• Respect and protect the environment and future generations.

Source: Adapted from European Commission, 2018.

Ten principles for ethically responsible interviews

- (1) **Voluntary participation:** means that participants are not coerced into participating in research. This is especially relevant where participants are captive audiences such as in prisons, universities, in workplaces or other organizations, places or relationships where the participant may feel that they have no option to refuse to participate. This is why it is particularly important to ensure that participants are aware that they are under no obligation to participate in the study and will face no consequences by declining to participate. Similarly, participants must be informed that they can also refuse to answer any questions, and also can terminate the interview at any time.
- (2) **Informed consent:** Informed consent means that prospective research participants must be fully informed about the procedures and risks involved in research and must give their consent to participate. Consent should preferably be given by the informant in written form in a language they understand (by signing the printed consent form or by email); however, verbal consent is also acceptable. A precondition for informed consent is that informants are briefed about the purpose of the research. Introduce each interview with a short description of project, its purpose and outputs and how the information will be used, as well as sharing information in a language understood by the key informant being interviewed.
- (3) **Do no harm:** Ethical standards require that researchers not put participants in a situation where they might be at risk of harm as a result of their participation. Harm can be defined as both physical and psychological. A risk assessment needs to be made in which you should include details of safety measures you intend to take, including training and insurance cover, and taking into account the implications of female–male interactions.

Reasonable steps must be taken to minimize and repair any harm, should researchers become aware that research procedures have proven detrimental to an interviewee.

- (4) **Confidentiality:** Research guarantees the participants confidentiality – they are assured that identifying information will not be made available to anyone who is not directly involved in the study. The stricter standard is the principle of anonymity, which essentially means that the participant will remain anonymous throughout the study with no identifying information being recorded or shared in the study.
- (5) **Anonymity:** Migrants who are interviewed will not be referred to by their real names in the country-level analysis or the final analysis. Record personal information only to allow follow-up contacts and ensure that the details are kept safely and apart from the rest of the interview notes. Explain the principle of anonymity to the interviewee and make absolutely sure that they understand what is meant. The principle of effective anonymity applies; this means that whatever details are included about the interviewee should effectively respect their anonymity and not lead to them being easily identified. Typically, key informants should not be referred to by their real names in the country-level analysis or the final analysis. Explain the principle of anonymity to the interviewee and make absolutely sure that: (a) they understand what is meant; and (b) you as the interviewer understand which level of anonymity they are requesting. The interviewee can request Full Anonymity; Citation of their Position and Organization only; Citation of their Organization only; or Full Citation. In the case of Full Anonymity, the researcher should note the type of organization they represent.
- (6) **Privacy:** Privacy is a principle that complements those of confidentiality and anonymity. Privacy is respected if an individual has an opportunity to exercise control over personal information by consenting to or withholding consent for the collection, use and/or disclosure of that information. Privacy risks arise at all stages of the research life cycle, including initial collection of information, use and analysis to address research questions, dissemination of findings, storage and retention of information, and disposal of records or devices on which information is stored. Ensure that all data, particularly personal data, information or data with identifying information, as well as field notes, are collected and stored securely at all times, with password protection when using digital recording and others.
- (7) **Trust:** Establishing trust between interviewer and informant is crucial for the success of interviews. To establish trust requires that general principles of interviewing as well as the selection of the interview setting are considered to the greatest extent possible, to ensure that interviewees provide information of their own free will, that they understand the principles of anonymity and that there are no safety risks for the informant or the interviewer.
- (8) **Referral:** In accordance with national law and research ethics, each researcher is responsible for referring any crime or specific protection concerns that emerge during the interviews to relevant NGOs or the authorities, in consultation with the person

in question. It is recommended that the national consultant prepare a country-specific information sheet with all the relevant contacts for this purpose, and the legal context in terms of the responsibility to report. If the concerns that arise relate to abuses of a child or children, this must be referred to the appropriate NGO or authorities.

- (9) **Neutrality:** Always ensure that you are neutral in organizing the interview, and throughout the interview itself, as well as ensuring that the informant perceives you as neutral. The objective is to obtain information, without making judgments or evaluations in relation to informants.
- (10) **Feedback:** Providing feedback to participants is essential in ethical research standards. If key informants request it, you should send them an interview summary. Sections of the analysis that concern their interview may also be shared with the informant if requested.

For additional guidance on carrying out ethical research, please consult the following sources:

- [United Nations Ethics Office](#)
- [Violence against women and girls data collection during COVID-19](#)
- European Commission (2018). [Ethics in Social Science and Humanities](#). Commissioned by DG Research and Innovation.

B. Guidance for conducting interviews

The role of the interviewer:

- Active listening
- Empathic understanding
- Flexible, responsive
- Recording and note-taking
- Ending the interview

General interview guidelines:

- Listen more, talk less.
- Follow-up on participants' responses.
- Ask questions of clarification.
- Ask to hear more about a subject (concrete details).
- Avoid leading questions.
- Ask open-ended questions.
- Avoid "why" questions.
- Do not interrupt.
- Keep participants focused.
- Tolerate silence.
- Be respectful and avoid bias, stereotypes, slang, harmful language and physical contact.
- Be aware of gender norms; be culturally aware and appropriate.

Before the interview:

- Become familiar with the research participants.
- Obtain a good-quality recording machine and microphone.
- Find a setting that is quiet and private.
- Review project materials, ethics and interview protocols.
- Share the informed consent letter if possible ahead of the interview.
- Pre-test and/or practice the interview with a colleague.
- Time the interview.
- Enter interview details into the Interview record worksheet (such as location, setting, date and others).

During the interview:

- Informed consent (read and obtain).
- Set up recording system.
- Introduction – short information about self and frame of reference of the interview.
- Start with broad, open-ended question.
- Refer to the interview protocol questions (They can be asked out of sequence or skipped if necessary for the flow of the interview).
- Take notes (such as key points, questions, things to follow up on, how the interview went, any other feelings about the interview, concerns and others).
- Record interview (check frequently).
- Listen actively.
- Be flexible and responsive.
- Seek clarification and additional information as needed.
- End the interview in a timely and respectful fashion.

After the interview:

- Provide details on follow-up to participants (including providing the participant with a copy of their informed consent form).
- Log interview details into the interview summary sheet.
- Transcribe interview.
- Analyse interview data to identify consistent themes, patterns.
- Identify quotes that illustrate key themes or findings.
- Follow-up with participants to ensure veracity and reliability of results.

APPENDIX E

Informed consent letter template

Research participant information letter and informed consent

Project title: Ensuring Migrant Women's Socioeconomic Empowerment and Integration: Addressing Links between Trafficking, Smuggling and Women's Labour Migration

UNODC/Trafficking in Persons and Smuggling of Migrants/Regional Office for Middle East and North Africa, in partnership with IOM Regional Office for the Middle East and North Africa and the UN Women Regional Office for Arab States.

Name:

Contact details:

Purpose of the research

You are invited to participate in a research study conducted by _____.

Three key objectives of this work are: (a) to identify and map the key institutions and actors responsible for implementation across the legal regimes and key regional policy frameworks (identified in the legal/policy analysis); and (b) to examine the procedures/processes are in place to ensure access to human, labour, economic, social, political and cultural rights; and (c) to identify strengths and limitations of the extent to which the system supports migrant women's empowerment and integration, and prevents trafficking and other forms of exploitation and harm. This research will be used to inform the understanding and action on the socioeconomic empowerment and integration of trafficked, smuggled, documented/undocumented migrant women workers.

Procedure

As a key stakeholder or informant, you have been invited to take part in this study. If you agree to take part, you will be asked to: (a) sign or confirm verbally a consent form that shows that you have volunteered to take part in the study; and (b) participate in an interview with the primary researcher. If you agree to be interviewed, we will ask you questions such as:

- What are the trends and issues related to women's labour migration in the country/region?
- What needs to be done to prevent trafficking and smuggling in the country/region?
- What roles do NGOs, international organizations and governments have to play in combating trafficking and smuggling?
- In what ways does your organization cooperate/engage with these and other stakeholders, organizations (such as governments, NGOs, civil society, migrant organizations and others) in relation to women migrants?

If you agree to the interviews, it will take 1.5 hours of your time. There are no right or wrong answers to these questions. You can skip any question you do not want to answer. The interview will be audio recorded so that we do not miss anything that we talk about. However, you have the right to refuse the recording and the interviewer will take handwritten notes. If you would like to participate in our study but you do not wish to sign this document, you can give verbal approval to participate.

Risks

There are no known physical risks to you from taking part in the study. There may be some psychosocial risks associated with the study due to the subject matter of questions, which may be distressing to some, as the research focuses on vulnerable populations who may have experienced trauma, exploitation, abuse, discrimination, violence and others. To mitigate these risks and any potential harm to others, participants can decline to answer any question, and all interviews will be confidential. Should you have any concerns or experience any distress, please contact the researcher.

Benefits

We anticipate that the data collected from the interviews will inform our analysis of women's labour migration, as well as trafficking and smuggling in the region. Further, this will assist in the identification of good practices and formulate recommendations aimed at enhancing women migrants' empowerment and integration.

Confidentiality

We will attempt to keep all information collected (your name and what you say) anonymous when we publish the study findings. The only person allowed to listen to the audio-recorded discussion is the primary researcher(s). We will not record your name during the interview, and you will be invited to choose a pseudonym. The collected information will be kept for at least two years after the study is completed before it is destroyed. It will be kept in a locked cabinet and password-protected computers.

Disclosing limits of confidentiality

It is our ethical and legal duty to disclose (report) all situations of imminent danger you and/or a third party (children/minors) are currently experiencing revealed during the course of the interview. Current situations of imminent danger include domestic violence, physical harm and/or sexual abuse. We will not disclose any data collected during that interview or within the research context; our limit is to report only current imminent danger. We will maintain our ethical duty to confidentiality in safeguarding information entrusted to us and not to misuse or wrongfully disclose it.

Compensation

For participating in this study, you will receive ____ compensation at the time of each interview. This gift is not payment for agreeing to take part in the study, but rather a token of our appreciation and to compensate for your time.

Participation

Your participation in this study is voluntary; you may refuse to participate without facing any penalty. We will not ask you any reason for refusing. If you decide to take part, you can withdraw from the study at any time without penalty and without loss of to which you are otherwise entitled. If you withdraw from the study before we have completed the interviews, your recorded information will be returned to you or destroyed. You have the right to skip any question you do not want to answer. We will use what you say during interviews in reports, publications, presentations and workshops. However, your words will not have your name added to them to identify you. If you are not willing to have your words used, you are free not to take part in the study.

Feedback and publications

The results of this study will be compiled into a UNODC-IOM-UN Women joint publication. Please indicate if you are interested to receive a copy of the report.

Contact

If you have questions at any time about the study or the procedures (or experience adverse effects as a result of taking part in this study), you may contact the principal researcher _____ listed at the top of this form. This study has been reviewed by representatives from the United Nations Office on Drugs and Crime (UNODC)/Trafficking in Persons and Smuggling of Migrants Regional Office for Middle East and North Africa (RO MENA), IOM Regional Office for the Middle East and North Africa (MENA) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) Regional Office for Arab States; and the research protocols are compliant with international guidelines on ethical research (see: www.un.org/en/ethics/) and aligned with guidance from the European Commission (European Commission, 2018), as well as UN Women.

If you feel you have not been treated according to the descriptions in this form, or your rights as a participant in research have been violated during the course of this project, you may contact _____ (Insert local focal point name and contact information).

Consent

By consenting to the study, you have NOT waived any rights to legal recourse in the event of research-related harm. Your signature below describes the conditions under which you have agreed to participate in this research project:

- I have read and understand the above information.
- I have received a copy of this form and have volunteered to participate in this study.
- I am willing to have the audio of my interview digitally recorded. (You can still participate, and we will not audio-record your interview if you indicate “No”).

*** WAIVING ANONYMITY: To reduce the risks associated with your participation and ensure confidentiality of the data and anonymity of other participants, your name will not be used in the study or any publications, unless specific consent is given to do so. The researcher will attempt to remove identifying information in this study. Please choose how you would like to be recognized in this study.

I would like my participation to be anonymous. Yes No

(If you select yes, the researchers will not use your name or a pseudonym and will attempt to remove any information that might identify you.)

OR

I would prefer to be referred to by a pseudonym. Yes No

(If you select yes, the researchers will not use your name but an alternate name with no association to you.)

OR

I would like to have my statements to be attributed to me. Yes No

If yes: I would like to have my name and organization identified.

Name: _____ Organization: _____

I would like to receive a copy of the study findings by email. Yes No

If you indicated yes, please provide an email address to which the copy of findings should be sent to _____

If written consent cannot be obtained, a verbal consent of above will suffice.

Participant's signature _____ Date _____

Researcher's signature _____ Date _____

APPENDIX F**Five migration routes:
West and Central Africa–North Africa region and Europe**

There are five main migration routes used by migrants within the WCA–North Africa region for both intraregional and extraregional migration and to a lesser extent extracontinental migration to Europe: (a) Central Mediterranean route (from the Niger and Libya to Italy); (b) western Mediterranean route (through Algeria, Mali and Tunisia or Morocco to Spain); (c) West African route (connecting Mauritania Morocco and Senegal to the Canary Islands); (d) north-western route (through the Sudan and Libya); and (e) air route to enter to Europe specifically, used mostly by regular migrants who usually overstay their visas once in Europe (Bruni et al., 2017). The air route is an important migration route because a significant number of women undertaking extracontinental journeys use planes because they prefer not to undertake the perilous land and sea journeys (MMC, 2018). However, there are no clear-cut migration routes, rather mixed migration routes.

(a) Central Mediterranean route: Niger as the main transit country

The Central (or Northern) Mediterranean route to Europe links Egypt, Libya and Tunisia to Southern Italy. This is the most common route used by migrants between WCA and North Africa, with 80 per cent staying in the ECOWAS and North Africa region and only 20 per cent moving onto Europe (Molenaar and El Kamouni-Janssen, 2017). It is estimated that on this route, 82–88 per cent of the migrants are male and 12–18 per cent are female (RMMS, 2017). Notably, the number of unaccompanied minors has significantly increased along this route. Tinti and Westcott (2016) indicate that this route (with an average journey time of three to six days) has become popular in the last three years for mixed migration flows (Frontex, 2017a) based on a twofold reason: (a) by transiting through the Niger, migrants can avoid the conflict in Northern Mali; and (b) smugglers and traffickers (and migrants) can circumvent the border restrictions into Algeria because the Niger is an ECOWAS member granting 90-day visas, and it also reduces the risks associated with irregular migration through smuggling. It is also the deadliest route as migrants are exposed to extreme heat, cold, dust, food and water scarcity and drowning at sea.

Smuggling and trafficking occurs once migrants enter the city of Agadez, Niger as they transit en route to Europe via Libya or Algeria (who are not ECOWAS members) – from Agadez, migrants are exposed to beatings, torture and abuse from smugglers, traffickers and security and border forces. From Agadez, most migrants use smugglers to move them through either north to Dirjou, Seguedine, Madama, Tummo and Sebah in Libya (average service fees between USD 150 and USD 200) or going east to Arlit, Niger onto Assamaka, In-Guzzam and Tamanrasset in Algeria (average service fees around USD 100); nonetheless, both routes merge in Libya where migrants cross by sea into Italy (Altai Consulting, 2015; Molenaar and El Kamouni-Janssen, 2017). The Arlit route to Libya via Algeria (run by the Tuareg) has become dangerous as a result of conflicts in

2016 between the Tuareg and Tebou, while the Seguedine route directly connected to Libya (run by the Tebou) is deemed safer (Molenaar and El Kamouni-Janssen, 2017).

The migrant smuggling network along the Central Mediterranean route is run by transnational ethnic groups with a network of recruiters and brokers in the entire WCA region and as far out as East Africa – the smuggling networks are more “freelancing” rather than centralized authority (Bruni et al., 2017). The fluidity of this network with its multiple actors poses a challenge from a policy perspective to curb irregular migration and eradicate human trafficking. As Bruni et al. (2017:39) highlight, while the “securitization measures of the EU Trust Fund for Africa to curb human smuggling in Niger (and particularly in Agadez), by criminalizing transport of migrants through the desert” was successful, the policy pushed smuggling networks underground as new routes were created through “conflict zones of northern Mali with dire consequences for migrants” including the “escalation of violent ethnic conflicts between Tebou and Tuareg” (see also Molenaar and El Kamouni-Janssen, 2017).

(b) Western Mediterranean route: Mali as the main transit country

This route connects Morocco to Spain (Spanish enclaves Ceuta and Melilla via land or continental Spain via sea) (Bruni et al., 2017). Originally, the route was established for economic migrants from Algeria and Morocco. With the increase in violent conflicts in the WCA region, the sub-Saharan Africa region, the Sudan and the Syrian Arab Republic, the route has become one of irregular migration and almost all the irregular migrants were male. In fact, in 2015, the biggest share of irregular crossings was Syrians (Frontex, 2017b). Mali has become a central transition country to Northern Africa and to Europe. Mali is rampant for human smuggling (RMMS, 2017), as the northern part of the country is lawless: the Government of Mali lost control over the northern cities of Timbuktu, Kidal and Gao after a rebellion and a military coup in 2012 (Bruni et al., 2017). These cities constitute the main hubs for irregular migration for the western Mediterranean route as migrants head out from Bamako, Mali’s capital city (and the most important hub for human smuggling in the country) (RMMS, 2017). The journey within Mali is usually legal, since Mali is an ECOWAS member, and most migrants have an ECOWAS passport (Carling, 2016).

Migration becomes illegal when the migrants cross the Algerian, Moroccan or Libyan borders, but as Carling (ibid.) indicates, once in Gao or Timbuktu, the legal journey comes to an end for most migrants who now have to engage the services of smugglers (fees of USD 1,500) to continue their journey into Algeria, Libya or Morocco. These two cities are significant hubs for smuggling and trafficking: from Timbuktu, migrants transit the ancient salt route through Algeria (Frontex, 2016), while migrants who pass through Gao move toward either Sabha in Libya (entering the Central Mediterranean route) or to Tamanrasset in Algeria (entering the western Mediterranean route) (Molenaar and El Kamouni-Janssen, 2017). The most dangerous part of the journey is through the Sahara Desert where smuggled migrants are exposed to abuse, violence, abduction and trafficking as this region (Libya–Mali–Algeria) is controlled by extremist groups who collect revenue from smugglers and traffickers (Bruni et al., 2017; Frontex, 2016). Strategic points of

human trafficking along the route, especially for women, are the cities of Gao, Meaka, Kindal and Tessalit (Bruni et al., 2017). The human smuggling and trafficking network along the western Mediterranean route is fluid and transnational with multiple actors who are closely knit.

(c) Western African Atlantic route: Mauritania as the main transit country

This route connects Senegal, Mauritania and Morocco to the Spanish Canary Islands (Tenerife, Las Palmas and Gomera) (Bruni et al., 2017). This used to be the most popular route for mixed migration used mostly by Malian, Moroccan, Nigerian and Senegalese nationals. At its peak in 2006, approximately 32,000 migrants from the WCA region took this route (ibid.). It is one of the most dangerous routes where crossing is by sea on long wooden fishing boats (*cayucos*) or smaller fishing boats (*pateras*) (ibid.); 40 per cent of the boat crossings are unsuccessful (Frontex, 2017b). The IOM (2021d) report indicates that since 2019, the Western African Atlantic route has become a popular route for migration, the journeys beginning at the coasts of Senegal, and re Malian, Gambian and Senegalese, with the majority of the migrants being male (97%) and only 1 per cent were women, and 3 per cent were minors (ibid.).

Nouakchott, the capital of Mauritania, is a key hub for irregular migration, since Mauritania has the most porous border in Africa: of its 5,000 km land border and 800 km of coastline, there are only 40 border posts (IOM, n.d.). Migrants move through the capital city onto other northern destinations in Morocco, Tunisia, Western Sahara and the Spanish African enclaves Ceuta and Melilla (UNODC, 2013). Nouadhibou, a northern Mauritanian coastal city and Saint Luis in Senegal are also main hubs of departure for irregular migration along the minor routes transiting through to Spain's Canary Islands (ibid.). Over the past three years, there has been a decrease in irregular migration along this route because of the coordinated border efforts like Seahorse or Operation Hera (Frontex, 2017b; UNODC, 2013). However, in November 2020, this route saw the number of illegal border crossings increase by 30 per cent, highlighting a new trend of record numbers of irregular migrants (Frontex, 2021). Indeed, in 2019, Spanish authorities reported approximately 58,525 migrant arrivals on their coast from the Western African Atlantic route (IOM, 2019g).

(d) North-western route: Sudan as the main transit country

The North-western route transiting through Egypt, Libya and the Sudan, across the Mediterranean Sea to Europe and also into Yemen and the Gulf States, is an important migration pathway, and the Sudan is a key hub for departure for irregular migrants predominantly used by Eritreans and Somalis (Davy, 2017). While functioning as a main transit country geographically, the Sudan is also a major country of origin and destination for irregular migrants (IOM, 2017b). In 2004, Egypt and the Sudan signed the Four Freedoms Agreement guaranteeing freedom of movement, residency, work and property ownership for their citizens; however, Egypt has selectively implemented the agreement (Mohyeldeen, 2020). The major push factors for irregular migration in the sub-Saharan Africa region are political, economic and social push factors: "war and conflict, persecution, compulsory military service, lack of employment opportunities, poverty, as

well as environmental factors such as drought” (Davy, 2017:5). Most migrants transiting through the Sudan have the intention to claim asylum with a significant number heading to Europe or to find employment in Libya (UNHCR, 2014). In fact, the Sudan is the major hub for nearly all Eritrean, Ethiopian and Somali migrants intending to cross into Europe (IOM, 2017b). Many migrants are abducted as they enter Eastern Sudan, and smuggling of Ethiopian migrants is common (ibid.).

The Ethiopian towns of Metemma and Humera are key entry points into the Sudan and primarily used by smuggled migrants. Ethiopian nationals can enter the Sudan legally by obtaining visas, and migration becomes irregular as they journey from the Sudan toward Libya or Egypt where they engage the services of smugglers (Davy, 2017). On the other hand, the Ethiopian nationals who cannot obtain the travel documents engage smugglers to assist them in either acquiring fraudulent documents or bypassing official border crossings. Migrants from Somalia face different challenges. Most Somalis have great difficulties in obtaining a Somali passport, thus they primarily engage the services of smugglers right in Somalia or in Addis Ababa, Ethiopia, and primarily head to Ajdabiya, Libya (ibid.). Eritrean nationals engage smuggling services from within their home country because the Government of Eritrea restricts movement within the country and does not grant exit visas to nationals who have not completed mandatory military service (ibid.).

Indeed, Davy highlights that “attempting to leave the country without permission, or assisting other individuals to leave the country illegally, is punishable by up to five years in prison” (2017:11). Smuggling networks operating inside the Sudan, and in the broader region, are well-organized, sophisticated and transnational with “hub-to-hub” linkages as they move migrants from countries of origin through the Sudan to Libya or Egypt and finally Europe” (Sahan Foundation and ISSP, 2016). Hajar, a camp near Khartoum, the Sudan, has been identified as a major transit hub used by migrants, smugglers and traffickers (ibid.). However, the North-western route is becoming more complex, “dominated by highly integrated networks of transnational organized crime groups” (Davy, 2017:13).

(e) Air route

This is usually used by migrants who can afford the fees (Altai Consulting, 2015), and the majority enter Europe with valid visas. Thus, their journeys until the point of entry and duration of the visa are legal (regular migration). Migration becomes irregular when the migrants overstay their visas (ibid.; Frontex, 2016 and 2017a). While most migrants using this route have valid documents, the process of attaining these documents is usually brokered through smugglers and criminal organizations (ibid.). Nevertheless, these smugglers and criminal organizations are also responsible for providing fake documents – forged entry/exit stamps, biomaterial pages, visas and others (Frontex, 2016). For example, a high number of Moroccans using forged documents have been detected in Casablanca en route to Rome Fiumicino (ibid.).

APPENDIX G

Themes indicators – Key international legal instruments

Major themes	Key international legal instruments
	Convention on the Elimination of All Forms of Discrimination against Women and its General Recommendations: 19; 26; 35; no. 38 on trafficking in women and girls in the context of global migration (CEDAW General Recommendations)
Pathways	UNODC and its protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and Protocol against the Smuggling of Migrants by Land, Sea and Air
Recruitment/Pre-departure	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
Labour and employment	ILO Convention no. 189 (Domestic Workers Convention), 2011
Social protection	ILO Convention no. 190 (Violence and Harassment Convention), 2019
Access to services	United Nations Special Rapporteur on trafficking in persons, especially women and children of 2020
Legal protection	Special Rapporteur on the human rights of migrants of 2020
Access to justice	United Nations Treaty Body reviews and UN Women gender equality framework
Others: Safe return, reintegration and repatriation	ILO/UN Women Checklist to Protect and Support Domestic Workers

Linkages between Trafficking, Smuggling, Labour and Migration Policy Regimes: Socioeconomic Implications for Women Migrant Workers

APPENDIX H

Legal and policy evaluation and analysis indicators

Thematic areas	Legal Instruments	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Protocol to Prevent, Suppress and Punish Trafficking in Persons
<p>Below are a series of questions linked to binding international legal instruments. Refer to each of the instruments and the specific clause highlighted in this row to provide an assessment of compliance of the national legal and policy frameworks with binding international legal instruments, conventions and their protocols. For each question below, provide details on the extent to which EACH relevant law/policy pertains to women migrants both documented and undocumented, and where relevant, to those who have been trafficked or smuggled. Note any variability by gender, migration status, pathway or category of entry or legal designation. Please refer to the specific clauses of relevant international legal frameworks outlined in Columns D-H. Additional questions appear in Column J for in relation to non-binding guidance. For each thematic area below, consider where appropriate whether the policy/legal provisions apply to all categories of non-nationals including migrants, irregular migrants, trafficked, exploited persons, irrespective of their residence status or formal vulnerability determination? Is the law limited for only particular categories of migrants? Does it vary by gender?</p>	<p>Referring to each question in COLUMN D concerning each policy and legal domain of (migration, labour, trafficking, smuggling, gender, others), please provide the details of the legal and/or policy framework or relevant provisions. Add more as needed. If there are two or more policy frameworks with relevance to the same provision, please ensure to specifically refer to both in the assessment in Column R. Provide brief excerpts and specific references to clauses relevant to Column B. Also, provide the date when the legal or policy instrument came into effect as well as the source the document was accessed.</p>	<p>Year reviewed under committee: _____ Other details from the Treaty Body Reviews: See LOIPR from the https://bitnetnet.ohchr.org/layopen15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=34&DocType=D-18 and https://bitnetnet.ohchr.org/layopen15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=34&DocType=D-18</p>	<p>Protocol against the Smuggling of Migrants by Land, Sea and Air. Please clearly note when states have officially signed Protocol, refer to OHCHR for reviews and complaints https://trafficsm.org/pages/ViewDetails.aspx?rc=7BEA18a1_no-XVIII-12-bk-chapter18. Please clearly note when states have officially ratified/signed UNTOC. https://www.unodc.org/unodc/en/treaties/COTC/signatures.html, indicated any Declarations and Reservations, and the Protocol (https://www.ohchr.org/en/professionalinterests/pages/provotetraffickingprovisions.aspx), refer to OHCHR for reviews and complaints reports of the UN SS on Trafficking (e.g. https://www.ohchr.org/EN/Issues/Trafficking/Pages/Trafficking.aspx), where appropriate, as well as secondary documents and KI to inform analysis. See https://bitnetnet.ohchr.org/SitePages/Home.aspx and to the Trafficking Evaluation Tool https://docs.google.com/document/d/1cE647T92kGaa6962u4072ao27ABod4H4p3m3W4466</p>
<p>Pathways</p> <p>1. Does the law guarantee equal opportunities and access for both men and women to migrate for employment? 2. Are there any criteria or legal restrictions imposed on women migrant workers' migration (e.g. duration, mobility, sector)? 3. Are pathways led to sectors or categories of employment? Are they led to skill level? 4. Does the law mandate an equal and fair system through which women migrants can have easy and non-discriminatory access to work permits? 5. Are work permits open or sector or employer specific?</p>	<p>Name of legal or policy framework and relevant provision: _____ Issue date: _____ Source (with link): _____ Relevant Section, clause or provision: _____ Enter quotes/specific policy/legal clauses: _____</p>	<p>CEDAW Article 11 (h) "The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment" CEDAW art. 38 ii par. 5 "Pathways of human trafficking often align with mixed migration flows. The Committee highlights the particular vulnerability of smuggled women and girls to being trafficked and underscores the conditions created by restrictive migration and asylum regimes pushing migrants towards irregular pathways".</p>	<p>Protocol on Smuggling of Migrants Article 2 "The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, in protecting the rights of smuggled migrants" Smuggling of Migrants Protocol Article 15 (1) "Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic reality of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment".</p>

Appendix available in Excel file at the following link: <https://docs.google.com/spreadsheets/d/1IRqS6ZcF3CqTmi4wSvfJDZ-SuhBPiKdFgApnBCbdFo0/edit#gid=1009599405>.

APPENDIX I

**Legal and institutional frameworks
for migrant categories in the Sudan**

<p>Secretariat of Sudanese Working Abroad</p>	<p>In 1998, the Government established the SSWA for the affairs of Sudanese expatriates and immigration issues in the Sudan. SSWA is the officially mandated institution, in coordination with relevant embassies and diplomatic missions for the protection of Sudanese workers abroad and for the reintegration of returnees to the Sudan. A good example of the latter is the European Union-IOM Joint Initiative, for which the SSWA is the national counterpart. The reintegration under the joint initiative expanded to address reintegration challenges at household, community and structural levels.</p>
<p>Commission of Refugees</p>	<p>In regard to refugees, the refugee regime in the Sudan has a history that goes back to 1965 when the Sudan hosted the first official refugee arrived from Zaire (former name of the Democratic Republic of the Congo). The Sudan is a State party to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol and enacted its first national law on the status of refugees in 1974. The Commission of Refugees was established in 1967 as the officially mandated body (with semi-independent status within the Ministry of Interior). The main responsibilities of the Commission of Refugees are assessing asylum claims (Refugee Determinant Status), registering refugees and issuing ID cards for refugees, in addition to managing refugee camps, collecting data on refugees, conducting studies and reporting on refugees. The Asylum Regulation Act of 2014 repealed the act of 1974. The 2014 Act is consistent in most of its provisions with international and regional standards to which the Sudan adhered. However, the encampment policy approach towards refugees remains an impediment to refugees' access to work; the refugees also face challenges in accessing health and education services. In 2019, the Sudan pledged at the Global Refugee Forum to enhance the integration of refugees into national education and health systems, as well as to facilitate work and remove movement restrictions for refugees.</p>

APPENDIX J

Country ratification of international conventions on migration, smuggling and trafficking and gender

International conventions	Ratification status					
	Côte d'Ivoire	Egypt	Morocco	Senegal	Sudan	Tunisia
Convention on the Elimination of all Forms of Discrimination Against Women (1979; into force on 3 September 1981) General Recommendations (no. 19, 26, 35 and 38)	✓	✓	✓	✓	✓	✓
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000; into force on 25 December 2003)	✓	✓	✓	✓	✓	✓
Protocol against the Smuggling of Migrants by Land, Sea and Air (2000; into force 28 January 2004; also called Smuggling Protocol)	✓	✓	✓	✓	✓	✓
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	✓	✓	✓	✓	✓	✓
ILO Convention on Domestic Workers (C-189) (2011; into force on 5 September 2013)	✓	✓	✓	✓	✓	✓
ILO Violence and Harassment Convention (C-190) (2019; into force on 25 June 2021)	✓	✓	✓	✓	✓	✓

APPENDIX K

Country ratification of international conventions on child labour

International conventions	Ratification status					
	Côte d'Ivoire	Egypt	Morocco	Senegal	Sudan	Tunisia
Convention on the Rights of the Child (1989; into force on 2 September 1990)	✓	✓	✓	✓	✓	✓
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000; into force on 18 January 2002)	✓	✓	✓	✓	✓	✓
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000; into force on 12 February 2002)	✓	✓	✓	✓	✓	✓
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000; Multi-treaty)	✓	✓	✓	✓	✓	✓
African Charter on the Rights and Welfare of the Child (also known as Children's Charter) (1990; into force on 1999)	✓	✓	Not ratified	✓	✓	Not ratified
Minimum Age Convention (ILO C-138) (1973)	✓	✓	✓	✓	✓	✓
Minimum Age Recommendation (ILO R-146) (1973)	✓	✓	✓	✓	✓	✓
Worst Forms of Child Labour Convention (ILO C-182) (1999)	✓	✓	✓	✓	✓	✓
Worst Forms of Child Labour Recommendation (ILO R-190) (1999)	✓	✓	✓	✓	✓	✓

APPENDIX L

Senegal's key regional legal and policy frameworks

- Treaty of the Economic Community of West African States (ECOWAS) adopted in Lagos on 28 May 1975 (Articles 2 and 27).
- Protocol Relating to Free Movement of Persons, Residence and Establishment (A/P1/5/79)
 - Accompanied by Supplementary Protocols as follows: (a) Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment (A/SP.1/7/85); (b) Supplementary Protocol on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment (A/SP.1/7/86); (c) Supplementary Protocol Amending and Complementing the Provisions of Article 7 of the Protocol on Free Movement of Persons, the right of Residence and Establishment (A/SP.1/6/89); and (d) Supplementary Convention Establishing a Community Guarantee Mechanism for Interstate Road Transit of Goods (A/SP.1/5/90).

Resolutions, decisions and directives aimed at improving the efficacy of protocols:

- Conference of Heads of State and Government
 - Directive A/DIR1/5/70 of 29 May 1979
 - Resolution A/RES2/11/84 of 23 November 1984
- ECOWAS
 - Decision A/DEC. 2/7/85 of 3 July 1985
 - Decision A/DEC. 2/5/90 of 30 May 1990
 - Decision C/DEC. 3/12/92 of 5 December 1992
- 2008 ECOWAS Common Approach on Migration
- ECOWAS Gender and Migration Framework and Action Plan (2015–2020)

APPENDIX M

National Committee to Combat Human Trafficking – the institutional framework for combating human trafficking

The NCCHT was established based on Article 4 of the 2014 Act as the highest authority on combating human trafficking. The establishment of NCCHT as a national inter-agency anti-trafficking task force is in line with Article 35(1) of the UNODC Model Law. The NCCHT is composed of 18 governmental ministries and institutions, most notably the following: Ministry of Justice – Legislations Department; Ministry of Interior – Passport and Migration Directorate; Prosecution Office – International Cooperation on Combating Human Trafficking; Judiciary; Ministry of Labour and Administrative Reform; Ministry of Social Welfare; Commission of Refugees; National Council for Child Welfare; SSWA; Sudanese Army Forces – Legal Directorate; Ministry of Health; Ministry of Education and Ministry of Culture and Media – International Media Directorate. In fact, only a few members of NCCHT are active.

The institutional capacity of the NCCHT is challenged by many factors:

- The NCCHT and the State-level committees lack adequate resources to realize their mandated functions.
- Notably, NCCHT has no institutional presence in the States. There are State-level committees established to address migration-related issues mainly TIP and smuggling of migrants.
- NCCHT has no coordination mechanism with the State-level committees.
- NCCHT and the State-level committees have no clear terms of reference for the roles and responsibilities of their members or regulatory framework for coordination among such members.
- In addition to these gaps, the NCCHT has no gender dimension in powers and functions established by Article 5.

APPENDIX N

Regional economic communities in Africa

*There are 8 recognized RECs by the African Union, each established by an independent regional treaty.	
Arab Maghreb Union	AMU
Common Market for Eastern and Southern Africa	COMESA
Community of Sahel-Saharan States	CEN-SAD
East African Community	EAC
Economic Community of Central African States	ECCAS
Economic Community of West African States	ECOWAS
Intergovernmental Authority on Development	IGAD
Southern African Development Community	SADC
*Additional regional economic cooperation bodies not officially recognized by the African Union as RECs	
Economic and Monetary Community of Central Africa	CEMAC
West African Economic and Monetary Union	UEMOA/WAEMU
Economic Community of the Great Lakes Countries	CEPGL
Indian Ocean Commission	IOC
Mano River Union	MRU
Southern African Customs Union	SACU
*Other regional cooperation structures not necessarily focused on economic integration also have some overlapping authority	
International Conference on the Great Lakes Region	ICGLR/CIRGL
Senegal River Basin Development Authority	OMVS

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