



COVID-19: Rights of Refugees and Migrants SADC Region Emigration



2019. Statistics on Refugees and Migrants in Southern Africa.

COUNTRY	REFUGEES	INTERNATIONAL MIGRANTS
ANGOLA	25, 793	669,479
BOTSWANA	1,113	110,596
COMOROS	12,504	900,000
DEMOCRATIC REPUBLIC OF CONGO	25,668	963,833
ESWATINI	1,300	32,300
LESOTHO	143	6,928
MALAWI	-	247,652
MAURITIUS	20	28,849
MOZAMBIQUE	4,713	334,665
SEYCHELLES	-	12,926
SOUTH AFRICA	89,285	4,224,256
TANZANIA	242,171	509,166
ZAMBIA	57,518	170,249
ZIMBABWE	8,956	411,257

Source: Global Detention Project as of December 2019

According to UNHCR, the southern African region has nearly 9.5 million persons of concern, this includes 6.6 million internally displaced persons (IDPs) and close to 1.1 million refugees and asylum seekers. (UNHCR 2020, p.1)

South Africa (2.9 million), the Democratic Republic of the Congo (952,871) and Angola (656,434) were estimated to be the three countries hosting the highest number of international migrants in the sub-region at mid-year 2020. (UN DESA, 2020) Tanzania is one of the six largest refugee camps in the world. (UNHCR, 2021) Refugees in the DRC are often not able to return home due to violence and often live-in overcrowded displacement areas. The living situation prevents social distancing and there is limited access to water sanitation and health

The rights and health of refugees, migrants and the stateless must be protected in national COVID-19 responses. Equal access to health services should be ensured including prevention, testing and treatment. (WHO, 2020)

facilities (InfoMigrants, 2020).

Thus creating ideal conditions for the spread of COVID19.

“Migrants and refugees are disproportionately

vulnerable to

exclusion, stigma and discrimination. Additionally, they are vulnerable to contracting COVID-19 and are more likely unable to access adequate health care.”

(WHO2020)

SADC Response to COVID-19

- As at March 2021, 24 per cent of the 329 Points of Entry (PoE) in the Southern Africa region were fully closed, 68 per cent were partially or fully operational and the status



of 8 per cent, unknown. (IOM, 2021)

- South Africa constructed over 40 kilometres of emergency barriers along its border with Zimbabwe to ensure that no undocumented or infected person crosses into the country. (IDCO, p. 47)
- Several countries have automatically extended visa and permit extension to those already regularly in country before the pandemic, showing some leniency for stranded migrants and visa overstayers. (IOM, 2020)
- In the Democratic Republic of Congo refugees are at risk due to a lack of funds needed to support them amid conflict and the COVID-19 pandemic. (InfoMigrants,2020)
- In South Africa, the initial government lockdown announcement on the 25th of March 2020 provided that **only South African-owned small shops could remain open. Immigrant-owned shops were shut down by police.** However, a new directive on the 6th of April 2020 permitted all shops to remain open. (Moyo and Zanker, 2020)
- In terms of asylum seekers, the South African Government stated in 2020 that anyone whose asylum permit expires in this period will have 30 days after the lockdown is lifted to renew it. (Dept of Home Affairs, 2020)
- In February 2021, the President of South Africa Cyril Ramaphosa announced that refugees and asylum seekers in the country would receive the COVID-19

vaccine. (IOL, 2021)

Botswana ordered complete shutdown of all entry/exit points, deportation of all foreigners to country of origin or countries of transit upon entry into the country, distribution of food relief excluding non-nationals and wage subsidy excluding non-nationals. Urban refugees and based refugees no longer receive cash payments from the government especially for those who had lost their jobs during the pandemic... (UN Newsletter, 2020)



Applicable Regional and International Standards

African Charter on Human and People's Rights

Article 16 of the *African Charter on Human and Peoples' Rights* (1981) sets out that “every individual shall have the right to enjoy the best attainable state of physical and mental health.”

Article 14 of the *African Charter on the Rights and Welfare of the Child* (1990) establishes that the right to health of every child must be guaranteed without discrimination.

The *African Commission on Human and Peoples' Rights* has explained that the right to health “includes the right to health facilities, access to goods and services to be guaranteed to all without discrimination of any kind”. (2003) It has also stressed that the accessibility of needed medicines should be guaranteed “to everyone without discrimination”. (2008)

The *Africa Regional Protocol on the Rights of Women in Africa* equally calls on all state parties to ‘ensure that the right to health of women, including sexual and reproductive health is respected and promoted’. (2000, Art. 14)

The *Convention Relating to the Status of Refugees* (1954) obliges state parties not to discriminate against refugees on the basis of religion, race or country of origin. (1954, Art.3)

The *International Convention on the Protection of the Rights of all Migrant Workers* and their Families, establishes that regardless of their migration status, all migrant workers and their families have the right to receive any medical care on the basis of equality of treatment with nationals of the State concerned”. (1990, Art. 28, Art. 43 (1)(e) and 45 (1c))

Article 28 of the Convention recognizes the right to emergency medical treatment for all migrant workers and members of their families even if their stay or employment is irregular.

Article 25 of the *Universal Declaration of Human Rights* protects the right to health under all hostile circumstances including pandemics.

In the same way, Principle 12 of the *Principles and Practical Guidance on the Protection of the Human Rights of Migrants in Vulnerable Situations* establishes that health systems and national plans of action on health should “include migrants, regardless of their status”. (OHCHR, 2018)

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) provides for right to health for all. (Art. 12)

The Committee on Economic Social and Cultural Rights

African governments must adhere to international law and the respect the rights of and human dignity of Migrants, Refugees and Internally Displaced Persons during the pandemic. (African Union, 2020)

(CESCR), has reiterated that health is a fundamental human right indispensable. (2000, para. 1)

Article 12 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) calls on state parties to take appropriate measures to eliminate discrimination against in health care in order to ensure, including those related to family planning'. (1981)

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and the Committee on the Rights of the Child (CRC) have

stressed that “every migrant child should have access to health care equal to that of nationals, regardless of their migration status”. (2017, para. 55) Additionally both

Committees have also stressed that the right to health should be ensured to “all migrant workers and their families, regardless of their migration status”. (Id, para. 58)

Similarly, Article 5 of the International Labour Organization (ILO) (1949)

Migration for Employment Convention requires State Parties to guarantee appropriate medical services for migrants for employment and their families.



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