

# Realizing the Right to Dignity of Zimbabwean Migrant Women in Botswana: A Practical Approach

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## Abstract

This article delves into the multifaceted human rights challenges confronting migrant women in Botswana, with a particular focus on women from Zimbabwe. The exploration reveals pervasive gender-specific barriers hampering these women's access to essential healthcare and decent employment opportunities. Additionally, it sheds light on their heightened susceptibility to gender-based violence, exploitation, and discriminatory practices in the workplace, all of which collectively infringe upon their fundamental right to dignity. Central to the argument is the imperative to safeguard and uphold the right to dignity for Zimbabwean migrant women. This necessitates the establishment of an environment that not only guarantees access to basic human needs but also fosters a space free from fear and abuse. The article advocates for the implementation of a "Migration with Dignity Framework" in Botswana. This proposed framework emphasizes the critical importance of gender-sensitive policies, robust access to justice mechanisms, non-discrimination initiatives, and the assurance of healthcare, secure working conditions, and adequate housing.

Keywords: migration, gender, human rights violations, discrimination

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## INTRODUCTION

*“Migration is an exercise of dignity-seeking”*  
—Crépeau and Samaddar (2011)

Zimbabwe, once known as the breadbasket of southern Africa (OHCHR, 2019), has faced significant political and economic difficulties in recent times, forcing many women to relocate in search of better prospects. These challenges stem from the country’s long history of political turmoil, including the 2017 military coup that ousted former president Robert Mugabe. An atmosphere of fear and insecurity has therefore been created for women who are susceptible to violence and abuse in crisis situations. In addition, the country’s hyperinflation and high rate of unemployment have led to widespread poverty and suffering. This situation particularly affects women who are often at the forefront of economic hardship (UN, 2021).

Statistics from 2018 indicate that an estimated 3 to 4 million Zimbabweans, regardless of race, ethnicity, political affiliation, and gender, have undergone phases of both voluntary and forced migration from their country of birth (Chikanda and Crush, 2018). After South Africa, Botswana hosts the largest number of Zimbabwean migrants, due largely to its close proximity and the country’s reputation as a stable, prosperous, and peaceful country. In 2017 alone, 807,332 Zimbabweans entered Botswana, with circular migration patterns contributing to multiple entries throughout the year (Government of Botswana, 2017). Despite the desperate conditions under which migrant women flee from Zimbabwe, they face a range of challenges in Botswana. This includes discrimination in the form of xenophobia from both state and non-state actors (Campbell and Crush, 2015) and limited access to basic services and decent employment opportunities (Mutenheri, 2019). The literature also confirms that they experience gender-based violence (Matose et al., 2022), as well as a lack of legal protection and difficulties in accessing healthcare (Moroka and Tshimanga, 2009). In addition, their status as migrants often renders them vulnerable to immigration-related mistreatment, such as arbitrary deportation and detention (Galvin, 2018). They may also face social isolation and a lack of support networks (Campbell and Crush, 2012).

In cases such as these, it is crucial for states to uphold the rights of women as part of their obligation to respect, protect and fulfill the human rights of all who reside within their borders. The right to dignity is a fundamental human right that applies to all individuals, regardless of their race, gender, religion, or migration status. Despite this, migrant women in particular often face unique challenges and forms of discrimination that threaten their dignity and undermine their basic human rights. It is therefore important to examine the intersection of migration and dignity and the ways in which the right to dignity can be safeguarded for migrant women.

In this way, the Migration with Dignity Framework (Daly et al., 2021) offers practical solutions to the challenges faced by migrants and provides guidance for governments, policymakers, and non-governmental organizations on how to ease

the transition of migrants into new surroundings, enhance their well-being, and protect their rights. This article critically assesses the circumstances of Zimbabwean migrant women in Botswana concerning their right to dignity and advocates for the urgent implementation of the Migration with Dignity Framework to address their challenges effectively.

## METHODOLOGY

The study adopts a qualitative and desk-based methodology, employing an extensive literature review to investigate the human rights challenges confronting migrant women in Botswana, with a specific focus on individuals from Zimbabwe. The qualitative approach facilitates an in-depth analysis, while the desk-based research involves a comprehensive review of relevant literature, including academic articles, reports, and legal frameworks. It prioritizes four interconnected themes – healthcare access, employment conditions, gender-based violence, and discrimination. The synthesis of findings contributes to a holistic understanding of the fundamental right to dignity for migrant women in Botswana. The methodology employs an iterative analysis approach, refining themes and identifying patterns throughout the review process, aiming to provide a coherent exploration of the identified human rights challenges and their implications for the preservation and violation of human dignity in the context of Zimbabwean migrant women in Botswana.

## MIGRATION IS A GENDERED EXPERIENCE

Migration is a complex and multi-layered process that affects individuals and communities in various ways. It is therefore important to acknowledge from the outset that migration is not a gender-neutral experience, and that women and men often face different challenges, risks, and opportunities in the context of migration. In this sense, migration can be considered a gendered experience (UN Women, n.d.).

Firstly, migrant women are often more vulnerable to exploitation and abuse during the migration process. In many situations, migrant women are commonly subjected to human trafficking, forced labor, and sexual violence, especially if they are not adequately protected by the laws of the destination country (IOM, 2009). Moreover, migrant women often work in low-skilled, low-paid, and insecure jobs such as domestic work, care work, and sex work, which renders them more vulnerable to exploitation and abuse in the workplace (Flynn, 2016).

Secondly, migration can have a significant impact on the family and on women's gender roles. Women who migrate are often the primary caretakers of their families and migration can disrupt these roles. This leads to a lack of care for children, elderly family members, and other dependents (Gamburd, 2000). It can also result in an increased burden of care work for women who stay behind, as well as increased stress and hardship for women who migrate and are unable to fulfill their care-related responsibilities (De Jong, 2000).

Thirdly, migration can have a significant impact on the health and well-being of women (Adanu and Johnson, 2009). Women who migrate are often exposed to new and potentially harmful environments, such as poor housing conditions, inadequate nutrition, and limited access to healthcare services (Rizwan et al., 2022). Moreover, migrant women are often unable to access health services due to a lack of medical insurance or legal status. This can result in a range of health problems, including sexually transmitted infections (Careaga, 2009), reproductive health issues (Chawhanda et al., 2022), and mental health problems (Delara, 2016).

It must, however, be noted that there is a great deal of research that confirms that migration can be a potentially beneficial experience for women (Kenny and O'Donnell, 2016). This relocation can at times offer economic advancement and financial stability, improved access to education and job opportunities, personal growth through exposure to new cultures and people, and a decrease in gender-based violence, as they escape harmful situations (Bachan, 2018). However, migrant women still often face numerous obstacles and discrimination due to the intersections of their multiple identities and social dynamics, such as race, ethnicity, language, class, religion, and gender. This intersectionality means that it is challenging for these women to receive support, protection, and opportunities in host countries. This further complicates their already difficult experiences (Domaas, 2021).

#### GENDERED DRIVERS OF MIGRATION FROM ZIMBABWE: LEAVING “UNDIGNIFYING” CONDITIONS BEHIND

It is in the context of the gendered nature of migration that leading literature suggests that the challenges causing people to leave Zimbabwe have affected women more than men, particularly in terms of poverty, health, education, and economic opportunities. For instance, whereas poverty remains a significant challenge for all in Zimbabwe, a longitudinal study on poverty in the country found that women-headed households are more likely to experience multi-dimensional poverty than male-headed ones (Benhura and Mhariwa, 2021). In this regard, researchers found that 16.8% of male-headed households in Zimbabwe were multi-dimensionally poor, whereas 17.3% of female-headed households experienced multi-dimensional poverty in the same year. In later years, this situation worsened for women, as in 2017 the results were 13.3% and 19% respectively, with female-headed households facing greater multi-dimensional poverty than male ones.

In Zimbabwe, women also face a disproportionate burden of poor health. For instance, according to the United Nations Population Fund (UNFPA, n.d.), the maternal mortality rate is high, with 363 deaths per 100,000 live births (UNFPA, n.d.). In addition, in 2020, whereas the rate of HIV infection among adults was found to be 12.9% – equivalent to about 1.23 million adults in Zimbabwe who are living with the virus – the study showed that women had a higher rate of HIV infection

when compared to men, with 15.3% of women being infected compared to 10.2% of men (US Embassy, 2020).

In terms of literacy, in 2016, Zimbabwe reported the highest adult literacy rate (96%) in the Southern African Development Community (SADC) region. However, when examining the data by gender, it revealed a significant gender gap, with women constituting 60% of the illiterate adult population (MEWC, n.d.).

A study by Nyagadza et al. (2022) found that Zimbabwean women face difficulties in getting formal jobs. In 1999, the Labor Participation Rate (LPR) in Zimbabwe was 69.8% for both men and women. However, women made up only 90% of the men's participation rate. The study showed that women tended to work more in informal jobs, making up only 22.3% of those in paid employment in 1999. This percentage increased only slightly to 23.9% in 2002. The study also highlighted that women had limited representation in higher-level job sectors like legislators, senior officials, and managers, holding only 18% of these positions.

Given the gender-specific difficulties faced in Zimbabwe, it is not surprising that Zimbabwean women are frequently on the move. In contrast to the overall female migration rate of 15% in the SADC region, women constitute a significant 44% of the migrant population departing from Zimbabwe (Dodson et al., 2008).

## DIGNITY AND MIGRATION

The concept of dignity holds a central position in human rights discussions, serving not only as a fundamental right but also as the bedrock for other rights (Steinmann, 2016). As noted by the International Court of Justice (ICJ), “Human dignity hovers over our laws like a guardian angel; it underlies every norm of a just legal system and provides an ultimate justification for every legal rule” (Zareef v. State, 2021).

The significance of dignity is underscored in key human rights documents, including the Universal Declaration of Human Rights (UDHR) (UN, 1948), emphasizing that all individuals are born free and equal in dignity and rights. The Banjul Charter (OAU, 1981), a pivotal African human rights document, similarly stresses the right to respect and recognition of dignity. Numerous human rights instruments, such as the International Convention Against Racial Discrimination (ICERD) (UN, 1965) and the Convention Against All Forms of Discrimination Against Women (CEDAW) (UN, 1979), also highlight dignity in their preambles, emphasizing its foundational role for other rights.

Scholars interpret dignity in two key dimensions: as the intrinsic value of every human being, as articulated in the UDHR, and as the conditions necessary for a dignified life, encompassing access to education, freedom of movement, food, and equality. Dignity, as emphasized by Steinmann (2016), legalizes the recognition and respect of humanity, closely aligning with the African concept of *Botho/ubuntu*, signifying humanness or personhood in Bantu languages (Rapatsa and Makgato, 2016).

In the context of migration, the UN Special Rapporteur on the human rights of migrants, François Crépeau aptly assert that “dignity has no nationality” (UN, 2011). This highlights that dignity is not contingent on citizenship and remains an intrinsic part of an individual's being regardless of their location or the actions of authorities. As a symbol of equality, dignity demands that migrants receive equal treatment and regard, irrespective of their citizenship status, emphasizing equal rights to quality of life, access to services, and security.

Crépeau and Samaddar (2011) further argue that migration is often a “dignity-seeking exercise” prompted by undignified conditions in migrants’ home countries, such as poverty, violence, limited opportunities, and discrimination. Understanding migrants’ rights necessitates recognizing that all individuals, regardless of circumstances, are entitled to dignity.

However, migration can have a profound impact on an individual’s sense of self-worth and their ability to lead a dignified life. It can either empower individuals with new opportunities and freedoms or strip them of their dignity through discrimination, exploitation, and a lack of basic human rights. Migrants may face dangers, vulnerability to trafficking, and violation of their basic human rights during their journey, leading to feelings of powerlessness and loss of dignity.

In their new host countries, migrants may encounter challenges such as discrimination, xenophobia, difficulties in finding employment and housing, and limited access to basic services. The inability to provide for themselves and their families can contribute to stress and further undermine their sense of dignity.

Yet migration can also be a pathway to empowerment and the restoration of dignity. By escaping oppressive situations and poverty, migrants can access new opportunities, improving their quality of life. This can result in increased self-esteem and a greater sense of control over their lives, contributing to a restoration of dignity.

## MIGRANT WOMEN’S RIGHT TO DIGNITY UNDER INTERNATIONAL LAW

Migrant women’s inherent right to dignity is recognized by various international legal standards and conventions. Article 1 of the UDHR (UN, 1948) states that “all human beings are born free and equal in dignity and rights.” This principle is further reinforced by article 3 of the UDHR that declares that “everyone has the right to life, liberty, and security of person.” These provisions establish the foundation for the protection of the dignity of all individuals, including migrant women.

The International Covenant on Civil and Political Rights (ICCPR) also affirms the right to dignity for all individuals, including migrant women. Article 7 of the ICCPR prohibits “torture or cruel, inhuman, or degrading treatment or punishment” (UN, 1996). This includes acts of sexual violence, exploitation, and abuse which are often experienced by migrant women, affronting their dignity.

In addition, CEDAW provides specific protections for women’s rights and dignity. In recognizing the specific vulnerabilities faced by migrant women, the CEDAW Committee – the body that oversees the implementation of the convention –

has drafted two general recommendations delineating the rights of migrant women in particular. The committee in both General Recommendation 26 on Migrant Women Workers and General Recommendation 38 on Trafficking in Women and Girls in the Context of Global Migration underscores the importance of the dignity as essential to recognizing the human rights of migrant women. These recommendations require states to take all appropriate measures to curb the exploitation of women, including in the context of migration. This involves introducing measures to prevent trafficking, forced labor, and sexual exploitation (UN, 2008, 2020).

Furthermore, the Banjul Charter and its Women's Protocol (the Maputo Protocol) both recognize the importance of protecting the rights and dignity of African migrant women. Article 5 of the charter requires states to guarantee the protection of the fundamental rights of *all* individuals, including the right to dignity and freedom from exploitation. Article 3 of the Maputo Protocol additionally states:

Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights ... [and obliges African states to] ... adopt and implement appropriate measures to prohibit any exploitation or degradation of women (AU, 2003).

## MIGRANT WOMEN'S RIGHT TO DIGNITY UNDER THE BOTSWANA DOMESTIC LEGAL SYSTEM

### *Botho and dignity*

*Botho* is a Setswana and African cultural concept<sup>2</sup> that refers to a set of values, behaviors and attitudes that promote respect for oneself and others. It is a concept that is deeply rooted in African culture and is seen as central to the development of healthy relationships and social harmony (Samkange and Samkange, 1980; Dolamo, 2013; Gareegope, n.d.). This cultural concept emphasizes the importance of balancing individual rights with collective responsibilities and seeks to promote the well-being of the individual and the community as a whole. *Botho* encompasses a wide range of values, including honesty, responsibility, compassion, and generosity. In Botswana, *Botho* is present not only in unwritten customs and practices but is also codified in the country's development plans, such as Vision 2016 (Government of Botswana, 1996) and Vision 2036 (Government of Botswana, 2016).

Dignity and *Botho* are closely related concepts that are complementary to each other. *Botho* is considered a key component of human dignity, as it promotes values and behaviors that enhance the self-worth and respect of individuals. At the same time, dignity, which recognizes the inherent worth and value of an individual, regardless of their circumstances or background – can be regarded as a cornerstone of *Botho*, as it incorporates the values of community, respect for others, and provides

<sup>2</sup> Known as *ubuntu* in South Africa, *ujamaa* in Tanzania, *uhuru* in Kenya, *consciencism* in Ghana, *humanism* in Zambia, *negritude* in Senegal, and *hunhu* in Zimbabwe.

a foundation for the development of strong relationships and social unity. In this way, *Botho* recognizes that human dignity is a keystone of personal and social well-being and seeks to promote this value in all aspects of life.

*Botho*, as a principle, can serve as a guide to the treatment of migrants. Sebola (2019) states that the ubuntu (*Botho*) philosophy places emphasis on a human being as a being who should be treated with humanity and dignity in all matters. Furthermore, Sebola (2019) argues that:

The manner in which African countries seem to have neglected the African life view (ubuntu) makes them fail to treat their African fellows with the dignity they deserve (my emphasis).

The application of the dignity approach in the context of gendered migration, specifically for Zimbabwean migrants in Botswana, holds significant implications. By considering how the human dignity approach aligns with the *Botho* principle, Botswana gains a nuanced understanding of how migrants should be treated with humanity and dignity within its cultural context.

#### *The Constitution of Botswana and dignity*

The Constitution of Botswana (Government of Botswana, 1966) was enacted in 1966 and has since been amended several times to reflect the changing needs of the country. While the Botswana Constitution does not explicitly mention the right to dignity, its inherent protection can be deduced through Section 3(c) of the Constitution. This section emphasizes that every person in Botswana is entitled to fundamental rights and freedoms, which include the right to life, liberty, security of the person, and protection of the law; freedom of conscience, expression, assembly, and association; as well as protection for privacy, home, property, and safeguarding against property deprivation without compensation. The inclusivity of this provision implies the recognition and safeguarding of an individual's dignity. By ensuring an individual's right to privacy, security, and protection from arbitrary deprivation, Section 3(c) implicitly upholds the inherent dignity of all in the country's borders, and implies that even though the term "dignity" is not explicitly mentioned, the Constitution inherently preserves and respects the fundamental value of human dignity through its broad framework of rights and protections.

#### *The courts in Botswana and dignity*

Recently, courts in Botswana have started relying on arguments based on human dignity in cases concerning basic human rights, such as equal protection. The courts in Botswana have used the right to dignity to interpret, among other things, the rights of indigenous peoples of access to water and rights to privacy of LGBTQIA+ persons.

*Mosetlhanyane v Attorney-General of Botswana*

This 2011 case involved a group of Basarwa (indigenous San peoples) who were challenging the government's decision to refuse to allow them to recommission – at their own expense – a borehole in their community, thereby thwarting their right to clean, safe, drinking water. As part of their submission, the applicants argued that their fundamental right to have access to water was linked to their right to human dignity. This was important because access to a reliable source of water was bound to significantly improve both their physical and mental state of health, particularly of the young, the elderly, and the infirm, all of whom are citizens of Botswana whose well-being should have been of concern to the government.

They pointed out that people in the reserve were suffering from multiple health issues, including constipation, headaches, and dizziness, due to their lack of energy and sleep. Without adequate food and water, mothers were unable to feed their children and they could not even clean themselves. That was further exacerbated by the fact that the government was actively providing water for animals in the reserve, but not for the applicants. That made them feel lowly and degraded as their need for water was not respected and their human dignity was disregarded (Applicants' Submissions, para. 80; Applicants' Submissions, paras. 83–84).

*Letsweletse Motshidiemang v. the Attorney-General (LEGABIBO as amicus curiae)*

This 2019 case was brought by a gay man who challenged the provisions of the Botswana Penal Code, which criminalized same-sex sexual intercourse (Botswana Penal Code, sec. 164, 167), on the grounds that they infringed his right to dignity and liberty and to be free from discrimination. The High Court in this case upheld the views expressed in the previous *Rammoge* (2016) and *ND* (2017) cases that all individuals, including those in the LGBTQIA+ community are entitled to have their dignity respected. The court stated that protection of dignity is the foundation of all other rights, and the state has a duty to promote human rights, tolerance, acceptance, and diversity.

The court recognized that the individual's gender identity and sexual orientation are central to their right to dignity, and that denying them the right to express themselves in a way they feel comfortable, violates their dignity and self-worth. The laws criminalizing consensual same-sex sexual acts have a negative impact on an individual's right to dignity, as they affect their self-respect and well-being (Esterhuizen, 2019). Reiterating that, the Court of Appeal in *Rammoge* stated that dignity is the cornerstone of all other rights in the Constitution and that denying someone their humanity is a denial of their dignity and the protection of their dignity.

The courts in Botswana, through cases like *Mosetlhanyane* and *Letsweletse Motshidiemang*, have recognized the centrality of dignity. These rulings established that denial of access to essential resources, like water, and the criminalization of

consensual same-sex relationships violate individuals' dignity, forming the bedrock for other rights.

The legal discourse on dignity sets the stage for understanding the challenges faced by Zimbabwean migrant women in Botswana. The connection lies in recognizing that the denial of essential resources, legal rights, and equal treatment, as established by the courts, directly impacts the lived experiences of migrant women, providing a framework to explore their specific struggles and vulnerabilities.

## ZIMBABWEAN MIGRANT WOMEN IN BOTSWANA AND THEIR RIGHT TO DIGNITY

This section examines the literature on the lived experiences of Zimbabwean migrants that threaten to affront their right to dignity. It examines the situation of migrant women in relation to their security of persons, their access to healthcare and decent economic opportunities, and how this has an impact on their right to dignity. This section cites only a few poignant examples and is not inclusive of all the issues facing migrant women in Botswana.

### *Zimbabwean migrant women in Botswana are at risk of sexual exploitation, gender-based violence and trafficking in transit*

International law recognizes the right to security of persons as a fundamental human right (UN, 1966). which is protected by various international treaties and conventions.<sup>3</sup> This right to security of persons is defined as the right of every individual to be free from fear and to live in safety. This includes protection from physical harm, as well as from psychological and emotional abuse, acts of violence such as murder, assault, and rape, and other forms of abuse such as domestic violence and human trafficking (UN, 2014).

The right to security of persons is closely tied to the right to dignity, as it encompasses the idea that every person should be protected from physical harm, threat, and intimidation and should be able to live their lives without fear of violence or abuse. In this way, the right to security of persons is essential for the preservation of human dignity, as it ensures that individuals can exercise their other rights and freedoms without fear of harm or retaliation.

According to the Human Rights Committee, the right to security of persons extends to various vulnerable groups, including migrant women who are particularly vulnerable during their irregular migration journeys. Despite this, research has shown that migrant women in irregular situations commonly encounter violations of their right to security of persons, such as sexual assault, psychological abuse, and physical violence.

<sup>3</sup> Universal Declaration of Human Rights (UDHR), art. 3; International Covenant on Civil and Political Rights (ICCPR), art. 9; American Convention on Human Rights, art. 5; African Charter on Human and Peoples' Rights, art. 5; European Convention on Human Rights, art. 5; Inter-American Convention to Prevent and Punish Torture, art. 5; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), art. 2; International Convention for the Protection of All Persons from Enforced Disappearance, art. 9; Rome Statute of the International Criminal Court, art. 7(1)(d).

A study by Matose et al. (2022) on the vulnerabilities of irregular female migrants at Plumtree border post in Zimbabwe found that migrant women were at a disproportionate risk of robbery and violence, including sexual assault and rape by armed robbers and men. The study also documented instances of psychological and emotional abuse, such as being called derogatory names and being subjected to gender-based violence. These findings indicate that migrant women in Botswana face grave human rights violations due to their intersecting vulnerabilities related to their gender and irregular status.

Zimbabwean women face challenges in legally entering Botswana due to strict immigration policies, leaving them susceptible to human trafficking (Borgen Project, 2021). Enablers, such as *malaichas* and *gumagumas*, who assist with illegal border crossings, have been identified as both smugglers and traffickers. Zimbabwean women are often promised job opportunities but end up falling victim to trafficking. There have also been cases of girl children being trafficked with the cooperation of their families to become domestic workers in Botswana (Chakamba, n.d.). The United States *Trafficking in Persons Report for 2021* states that the Government of Botswana initiated three trafficking investigations, all involving Zimbabwean traffickers exploiting Zimbabweans in labor and sex trafficking (US Department of State, 2021). The 2022 US report highlighted that the authorities in Botswana have inadequate procedures for identifying and addressing trafficking cases involving migrants, especially women who are at a greater risk of trafficking (US Department of State, 2022). In this regard, this report considers trafficking in persons to be a “gender-based phenomenon” with an estimated 79% of all detected victims of trafficking being women and children, whereas the human traffickers themselves are “overwhelmingly male.”

This glaring insufficiency underscores the urgent need for comprehensive measures to safeguard the dignity and rights of Zimbabwean migrant women in Botswana, ensuring their protection from such egregious violations.

#### *Zimbabwean migrant women of a reproductive age with specific health needs*

The Constitution of Botswana (Government of Botswana, 1966) and the Public Health Act (Government of Botswana, 2013) do not explicitly mention the right to health. However, the right to health for migrants can be inferred from provisions in the Constitution’s Bill of Rights on the right to life, the right to dignity, protection from cruel and degrading treatment, and protection from discrimination, as the Bill of Rights applies to everyone residing in the country, regardless of citizenship.

The right to health is a fundamental aspect of human dignity, as it provides individuals with the necessary resources and conditions to lead fulfilling and productive lives. This right is not only about access to basic medical care, but also encompasses the broader aspects of physical and mental well-being, such as clean water, nutritious food, safe working conditions, and a healthy environment. Therefore, when people are unable to access the resources and services needed to

maintain good health, it undermines not only their individual dignity but also their adequate standard of living. Thus, the right to health helps to protect and promote the inherent dignity of every person. It recognizes that good health is a fundamental aspect of human life necessary for a person to lead a dignified existence.

Despite this, a study by Moroka and Tshimanga (2009) showed that Zimbabwean cross-border migrants in Botswana – mainly women – face barriers in accessing healthcare services. The study concluded that many undocumented migrants do not have access to health services, which can lead to increased health risks and vulnerabilities. It is in this context that the National Strategic Plan to Reduce Human Rights-Related Barriers to HIV and TB Services: Botswana 2020–2025 found that only 27% of non-citizens living with HIV in Botswana are receiving antiretroviral (ARV) therapy, which represents one-third of the average national coverage rate. Barriers to accessing HIV services include legal and policy barriers, immigration detention conditions, stigma, and discrimination.

A study of six southern African countries also indicated that inequalities exist in the use of sexual and reproductive health services between migrants and non-migrants. Migrants face barriers such as the fear of deportation, financial constraints, a lack of health information, language barriers, and discrimination by service providers. A study by Keitshokile et al. (2014) confirmed that migrants in Botswana have limited access to maternal healthcare services, putting them at higher risk of maternal morbidity and mortality, which violates their right to health and life.

This underscores the imperative to address these barriers comprehensively, ensuring that the right to health is effectively upheld for all individuals, regardless of their migration status.

### *Zimbabwean migrant women in Botswana in precarious low-wage labor in the informal economy*

The right to decent work is a basic human right recognized by various international organizations, including the International Labor Organization (ILO)<sup>4</sup> and the Banjul Charter. Decent work refers to the opportunity for all individuals to work in conditions that are safe and secure and provide fair remuneration for their efforts – a fundamental human right essential for realizing their right to dignity. This right is also enshrined in the UDHR (UN, 1948), which recognizes that everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment.

The realization of the right to decent work is critical for the realization of the right to dignity. Decent work provides individuals with the opportunity to participate

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<sup>4</sup> International law prescribes that the following eight fundamental conventions, all of which have been ratified by Botswana, apply to migrants, regardless of migration status: Worst Forms of Child Labour Convention, 1999 (No. 182); Minimum Age Convention, 1973 (No. 138); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Equal Remuneration Convention, 1951 (No. 100); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Abolition of Forced Labour Convention, 1957 (No. 105); Forced Labour Convention, 1930 (No. 29).

in the economy, which is essential for their social and economic well-being. It enables individuals to earn a living and support themselves and their families – fundamental to human dignity. Decent work also contributes to the development of human capabilities and promotes self-esteem and self-worth. It empowers individuals to use their skills and talents, and to contribute to the growth and development of their communities. It also provides a sense of purpose and meaning to individuals' lives, which is crucial for their psychological and emotional well-being.

Furthermore, decent work helps to reduce inequalities and discrimination in the workplace. It ensures that everyone has access to the same opportunities and is treated fairly and equally, regardless of their race, gender, or other personal characteristics. This promotes social cohesion and a sense of community, which is critical for the realization of human dignity.

However, for migrants this right is limited in many countries, including Botswana. In Botswana, foreign workers are required to obtain an employment visa to work in any sector; however, many Zimbabwean migrant women face difficulties in obtaining the proper documentation. This is due to a combination of factors, such as the high demand for Zimbabwean migrant workers, who are often regarded as “undemanding and docile,” (Mutenheri, 2019) and the bureaucratic processes involved in obtaining proper documentation.

As a result of these difficulties, many migrant workers are forced to sign “quasi-legal” contracts that often impinge on both their labor rights and their rights as residents in the country. This reduces their bargaining power with employers and leaves them vulnerable to exploitative work conditions. Zimbabwean migrant workers have reported being forced to work long hours without a wage increase, which is contrary international labor laws. In addition, they fear being reported to authorities or losing their jobs, which puts them in a vulnerable position relative to their employer (Mutenheri, 2019).

The issue of Zimbabwean migrant workers in Botswana is particularly relevant in the context of domestic work. Zimbabwean women are conspicuous as domestic workers in Botswana, especially as more and more Botswana women in the country are entering the formal sector and require domestic workers to take care of their households. Some skilled Zimbabwean women may take up domestic work as a means of survival, and this often leads to them being underemployed.

Regulations contained in the Botswana Employment Act (Government of Botswana, 1982) restrict domestic work to citizens of the country, which means that non-Batswana individuals, including Zimbabwean women, are irregularly employed. Given that domestic work is traditionally very feminized, this provision ultimately has a disproportionate impact on migrant women in particular. This irregular situation has been found to open up the possibility of exploitation by some families who abuse their domestic workers and subject them to servitude – a severe form of labor exploitation. This is well documented in Botswana by various organizations, despite the fact that article 8 of the ICCPR (UN, 1996) prohibits slavery or servitude.

A 2022 treaty body report by the Committee on the Elimination of Racism noted that some Zimbabwean women who migrated to Botswana voluntarily were subjected to involuntary domestic servitude by their employers (OHCHR, 2022). Families sometimes employed domestic workers without proper work permits, failed to pay adequate wages, and restricted or controlled the movement of their employees. Another study detailed that Zimbabwean women cannot report sexual abuse they suffer at the hands of their employers because they fear detention and deportation for violating immigration and labor laws (Baputaki, 2007).

This underscores the urgent need to address the rights and working conditions of Zimbabwean migrant women in Botswana to safeguard their right to decent work and, consequently, their right to dignity.

### MIGRATION WITH DIGNITY FRAMEWORK: *BOTHO* IN MIGRATION

International law establishes a framework for safeguarding the human rights of migrants, offering guidelines through treaties and standards. However, the effective implementation of these standards can be challenging without precise clarification from treaty bodies. Addressing this gap, the Dignity and Migration Framework (UNDP, 2021) provides a comprehensive solution by offering explicit guidance on the practical application of these human rights provisions.

Developed by Daly et al. (2021), the Migration with Dignity Framework represents an innovative and human-centric approach to migration. It places a significant emphasis on the paramount importance of dignity throughout the migration process, aiming to ensure that migrants are treated with respect and provided the necessary support to maintain their human dignity.

The Migration with Dignity Framework was developed to benefit migrants, addressing the unique challenges and vulnerabilities encountered during their migration experiences. This framework places a particular focus on the dignity of migrant women, acknowledging the distinct challenges they face and providing targeted support.

In contrast to broad international legislation, the Migration with Dignity Framework stands out as a practical and nuanced guide for the implementation of human rights provisions. While international laws set overarching standards, the framework provides clear, context-specific guidance, ensuring a more effective and tailored approach to the protection of migrants' rights.

An added advantage is that compared to domestic laws, which may vary significantly across countries, the Migration with Dignity Framework offers a unified and universal approach rooted in the values of *Botho*. By prioritizing critical needs, ensuring safety, and facilitating access to essential services, the framework seeks to promote a compassionate and just migration policy and practice. The framework therefore serves as a bridge between international standards and practical application, tailored specifically for the well-being and dignity of migrants, and especially women, while aligning with the cultural values of *Botho*.

The framework is based on a set of core principles that focus on the rights and well-being of migrants. These principles include the right to freedom of movement, right to security of persons, right to equality and non-discrimination, and right to basic quality of life, among other rights. In summary, the key components of this framework include:

- the right to equal worth, including access to benefits, services, and legal protections;
- the right to a reasonable quality of life, including rights related to employment, housing, and food;
- the right to access legal services; and
- civil and political rights, including freedom of speech, religion, assembly, and political participation.

By integrating these principles into migration policies and practices, the framework aims to create a more just and humane migration system that upholds the dignity of all migrants, including women.

The first principle of the framework is movement, which recognizes the right of all individuals to choose when to leave and when to return. This principle consists of four parts: the freedom to leave one's country of origin, the freedom to return, admission to a foreign country, and freedom of movement within the country of origin or destination. For migrant women, this means being able to migrate safely and make informed decisions about their migration without fear of exploitation or violence. The authors emphasize that freedom of movement is crucial to human dignity and that immigration policies should be designed and implemented with respect for each person's inherent and equal worth.

The second principle is security, which aims to protect migrants, including women, from sexual violence, trafficking, slavery, forced labor, and abusive detention. Zimbabwean migrant women in Botswana are particularly vulnerable to these forms of exploitation, which can have long-lasting physical, emotional, and psychological effects. The framework seeks to prevent and respond to gender-based violence and exploitation, emphasizing that a person's security is linked to their dignity.

The third principle is equality, which recognizes the right of all individuals to be treated without discrimination based on gender, nationality, or legal status. Zimbabwean migrant women face discrimination and marginalization in Botswana, which limits their access to services and employment opportunities. The framework proposes that such discrimination is a violation of dignity, as equality is intrinsic to the idea of human dignity.

The fourth principle is the right to a reasonable quality of life, which recognizes the right of all individuals to access decent employment, housing, and food. While housing and food were not discussed in the case study, it can be inferred that migrants face challenges in accessing these rights. The framework emphasizes that states must

provide migrants with access to basic needs, including employment and housing protections, as they are necessary conditions for a dignified life.

The fifth principle is access to services, which recognizes the right of all individuals to have access to legal services and justice. The authors stress the importance of access to legal services, particularly for migrants who do not have the right to vote and must rely on the judiciary to claim and protect their rights. States must ensure that migrants have access to legal services so they can protect themselves.

The sixth principle is civil and political rights, which recognizes the right of all individuals to freedom of speech, religion, assembly, and political participation. Migrant women often face restrictions on these rights, limiting their ability to advocate for themselves and their communities. The framework highlights the need for migrants, including women, to access these rights so they can speak for themselves in their countries of destination.

## PRACTICAL APPROACHES

Botswana can use the framework to protect migrant women's rights by implementing the following practical measures:

- Developing gender-sensitive policies and laws: Botswana should ensure that its migration policies and laws are gender-sensitive, considering the specific challenges and vulnerabilities faced by migrant women.
- Providing access to justice: Botswana should provide migrant women with access to fair and impartial legal processes, including access to legal representation and the ability to report abuse and exploitation.
- Protecting against discrimination: Botswana should take steps to prevent and address discrimination against migrant women, including education and training programs for law-enforcement officials, employers, and service providers.
- Ensuring access to healthcare: Botswana should provide migrant women with access to affordable and quality healthcare services, including reproductive-health services in order to address their specific health needs.
- Supporting safe and dignified working conditions: Botswana should work to ensure that migrant women have access to safe and dignified working conditions, including protection from exploitation and abuse, and access to fair wages and benefits.
- Providing safe and accessible housing: Botswana should ensure that migrant women have access to safe and accessible housing, including emergency shelters for victims of violence and exploitation.

## CONCLUSION

The migration experience in Botswana can be a difficult and challenging one for all migrants; however, for migrant women, these difficulties are often exacerbated because migration is a gendered experience. The unique challenges faced by women, in comparison to their male counterparts, highlight the need for a nuanced and gender-sensitive approach when addressing the needs and rights of migrants in Botswana. Whether it is access to healthcare or employment opportunities, migrant women often face additional obstacles that can further complicate their already challenging experiences. The reality is that migration is a complex and multifaceted issue, and it is essential to understand how gender influences and shapes the experiences of migrants in order to develop effective and equitable policies and programs.

Migrant women from Zimbabwe are particularly vulnerable and they often face a range of challenges related to their migration status. For example, they may be subjected to gender-based violence, exploitation, and discrimination in the workplace. They may also experience difficulties in accessing basic services such as healthcare, due to their status as migrants.

In light of these challenges, it is crucial that the right to dignity of Zimbabwean migrant women be upheld and protected. This means ensuring that they have access to basic human needs, such as food, shelter, and healthcare. It also means creating an environment in which they can live free from fear and exploitation and where they are treated with respect and dignity. This can be achieved through a range of measures, including the provision of legal and social services, and the development of policies that address the root causes of discrimination and violence against migrant women.

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