

# POLICY BRIEF

## REGIONAL AND NATIONAL POLICIES AND FRAMEWORKS IMPACTING MIGRANT ADOLESCENTS AND YOUNG PERSONS LIVING WITH HIV AND AIDS ACROSS THE EAST AND SOUTHERN AFRICAN REGION.



### EXECUTIVE SUMMARY

Migrant adolescents and young people (AYP) living with HIV/AIDS in East and Southern Africa (ESA) face significant vulnerabilities due to challenges with documentation and discrimination when accessing healthcare.[1] This leaves them often exposed and in need of protection. To ensure support and access to healthcare specific legal and policy measures are required. However, while some regional policies provide a comprehensive framework for child protection rights and promotion, a trend towards more restrictive policies at the national level limits the reach of broader rights and protections for migrant AYP living with HIV/AIDS.

This policy brief is based on the findings of a review of the current policy landscape affecting AYP living with HIV/AIDS across 14 countries in the regional bodies of the Southern African Development Community (SADC) and the East African Community (EAC).<sup>\*</sup> The findings show that although progress has been made across the region in developing comprehensive HIV/AIDS and sexual and reproductive health rights (SRHR) frameworks significant gaps persist in addressing the specific needs of migrant AYP. Only four of the countries reviewed (South Africa, Mozambique, Kenya, and Zambia) have legislation explicitly addressing the needs of migrant AYP, including those without documentation, in accessing healthcare services. Although SADC and EAC policies are generally more inclusive and provide a comprehensive framework, for the protection and promotion of children's rights these become more restrictive and less responsive to the needs of migrants, adolescents, and migrant AYP living with HIV/AIDS as they filter down from global to national levels.

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**MIGRANT ADOLESCENTS ARE ONE OF THE MOST VULNERABLE GROUPS IN ESA AND FACE SIGNIFICANT BARRIERS TO ACCESSING HIV PREVENTION, TESTING AND TREATMENT.[2]**

A strong legal framework serves as a powerful tool for accountability and enables practitioners to refer to fundamental rights and provisions at various levels—global, continental, regional, and national. It also provides a basis from which to address gaps and weaknesses in law and advocate for change including policy reform.

The policy review forms part of RIATT-ESA's strategic plan to address the issue of stigma and discrimination experienced by migrant AYP living with HIV and AIDS in the region.

<sup>\*</sup>SADC countries: Angola, Botswana, Eswatini, Lesotho, Namibia, Malawi, Mozambique, South Africa, Zambia, Zimbabwe. East African countries: Kenya and Uganda.

<sup>\*</sup>SADC and EAC countries: The Democratic Republic of Congo (DRC), Tanzania

<sup>\*</sup>EAC countries: Kenya, Uganda

[1] Save the Children, "Girls on the Move Research Series" (Save the Children International., 2020), [https://resourcecentre.savethechildren.net/node/18292/pdf/girls\\_on\\_the\\_move\\_southern\\_africa\\_final.pdf](https://resourcecentre.savethechildren.net/node/18292/pdf/girls_on_the_move_southern_africa_final.pdf).

[2] Gynis Clacherty, "A Narrative Review of the Impact of Stigma and Discrimination on Migrant Adolescents Living with HIV in Fragile Contexts in the East and Southern Africa Region" (Regional Inter-Agency Task Team-East and Southern Africa (RIATT-ESA), 2023).

# REGIONAL POLICIES

## ESA'S APPROACH TO PROTECTING MIGRANT ADOLESCENTS AND YOUNG PERSONS

While SADC and the EAC have various policies addressing issues affecting youth and adolescents, no single policy focuses solely on protecting migrant AYP. However, several policies touch on their needs.\*



### KEY POLICIES

- **Charter of the Fundamental Social Rights in SADC (2003):** This charter provides a broad framework for the protection of human rights, including the rights of children and adolescents.
- **SADC Protocol on Education and Training (1997):** This protocol recognizes the importance of education for all children, including migrant AYP.
- **SADC Protocol on Gender and Development (2008) and Amendments (2016):** This protocol addresses gender-based violence and discrimination, which can disproportionately affect migrant girls and young women.
- **SADC Protocol on the Facilitation of the Movement of Persons (2005):** This protocol aims to facilitate legal migration while also addressing the challenges faced by migrants, including AYP.
- **Minimum Package of Services for Orphans and Vulnerable Children and Youth (OVC&Y) (2011):** This policy addresses the needs of vulnerable children, including migrant children.
- **SADC Declaration on Youth Development and Empowerment (2015):** This declaration recognizes the need to protect migrant AYP and address issues like xenophobia and trafficking.
- **Regional Indicative Strategic Development Plan (RISDP) 2015-2020:** This plan prioritizes the protection of migrant AYP as part of its focus on mixed migration.
- **The EAC Regional Integration Health Policy (2018-2028):** This framework aims to strengthening health systems, control diseases, and promote health research and innovation. Improving adolescent health can indirectly benefit migrant AYP.
- **EAC Reproductive, Maternal, Newborn, Child, and Adolescent Health (RMNCAH). Policy Guidelines 2016-2030:** These guidelines identify strengthening and integration of sexual and reproductive health, adolescent health, child health and maternal health and rights policies and programmes as one of the key areas of intervention.
- **EAC Youth Policy (2016):** This policy aims to guide the planning, implementation, monitoring, and evaluation of programmes addressing youth issues in the region. This may include migrant AYP but they are not explicitly mentioned.

#### SPOTLIGHT: THE SADC PROTOCOL ON CHILDREN'S RIGHTS

This draft protocol aims to streamline child protection and migration obligations, making it easier to monitor compliance among SADC states. It was drafted by the Child Rights Network for Southern Africa (CRNSA) to address the gap in non-binding agreements like the UNCRC and ACRWC.

28.3: State Parties shall ensure all children have access to and make use of quality, primary health care services; including the treatment and prevention of HIV and AIDS, tuberculosis, malaria, pneumonia, and diarrhoea are prioritised.

28.4: States shall undertake and establish effective measures to prevent and eliminate stigma and discrimination and ensure protection of privacy and confidentiality of children living and affected with HIV, at institutional, community or individual level

#### SPOTLIGHT: THE EAC CROSS BORDER HEALTH SERVICES BILL

Aims to facilitate the movement of health professionals and products across the partner States, harmonise health regulations, and improve access to quality healthcare services for the region's population. While it doesn't explicitly mention migrants, it could indirectly benefit migrant AYP by improving access to healthcare services across borders.

\*The references for all policies can be found in the full policy review - see link on page 3.

# REGIONAL GAPS AND OPPORTUNITIES

Despite a range of comprehensive policies, there are still gaps in protecting migrant AYP. Many policies are broad and fail to directly address the specific needs of this group. Additionally, the implementation of these policies can be inconsistent across the different countries.

## REGIONAL: NEED FOR STRONGER PROTECTION

To better protect migrant AYP, SADC and EAC need to:

- **Address diverse needs and challenges of AYP:** migrant AYP face a wide range of challenges and have specific age-related SRHR needs. Current frameworks need to better recognize these complexities and address the limitations of categories used to define migrant youth (eg unaccompanied minors, trafficking victims, refugees).
- **Develop more specific policies:** While SRHR frameworks are sometimes more inclusive, broader health and HIV/AIDS policies generally neglect migrant AYP. Policies are needed to ensure the unique needs of AYP.
- **Strengthen implementation:** This will ensure that policies are effectively implemented on the ground and can address obstacles such as documentation status to accessing healthcare.
- **Invest in data collection and research:** This will provide a stronger evidence base and help to better understand the needs of migrant AYP.
- **Link to regional coalitions working in child rights advocacy:** the landscape of child rights is constantly evolving. Linking with organisations such as the Eastern Africa Child Rights Network (EACRN) and The Child Rights Network for Southern Africa (CRNSA) can ensure that the concerns and needs of migrant AYP are kept as a key issue at national and regional levels.

## REGIONAL FRAMEWORK INTEGRATION

The overlap between SADC and EAC in the region, particularly through Tanzania and DRC's dual membership, creates both opportunities and challenges for migrant AYP healthcare access. The key EAC frameworks complement SADC frameworks and provide additional mechanisms for addressing migrant AYP healthcare needs.

**The EAC's more integrated approach to cross-border issues such as youth and access to healthcare, including harmonised treatment protocols and shared health information systems, offers valuable lessons for broader regional coordination.**

Work with regional coalitions focusing on child advocacy such as:

- **The Eastern Africa Child Rights Network (EACRN):** this is a regional organisation working with national child rights coalitions across Eastern Africa to build their capacity in child rights reporting and engagement with international treaty bodies.
- **The Child Rights Network for Southern Africa (CRNSA):** focused on promoting and protecting children's rights in the Southern African Development Community (SADC) region CRNSA work to improve the quality of life for children by advocating for policies and practices that fulfil their rights and welfare.

VIEW THE RIATT-ESA POLICY  
REVIEW AND STRATEGY PLAN  
HERE



# NATIONAL POLICIES

## PROTECTING MIGRANT ADOLESCENTS AND YOUNG PERSONS

The majority of the 14 countries included in the review have limited engagement with the specific needs and challenges of adolescent migrants in terms of access to healthcare and HIV/AIDS care. Four countries: Kenya, Mozambique, South Africa, and Zambia have comprehensive engagement. Lesotho and Tanzania have very little - to no engagement.

### COUNTRY-SPECIFIC ANALYSIS

The legislative frameworks of each of the 14 countries and the extent of engagement with migrant AYP in relation to access to HIV/AIDS care was conducted. On the heat map each country is given a rating using a colour code to show the extent to which overall, the country engages with migrant AYP in relation to access to HIV/AIDS.

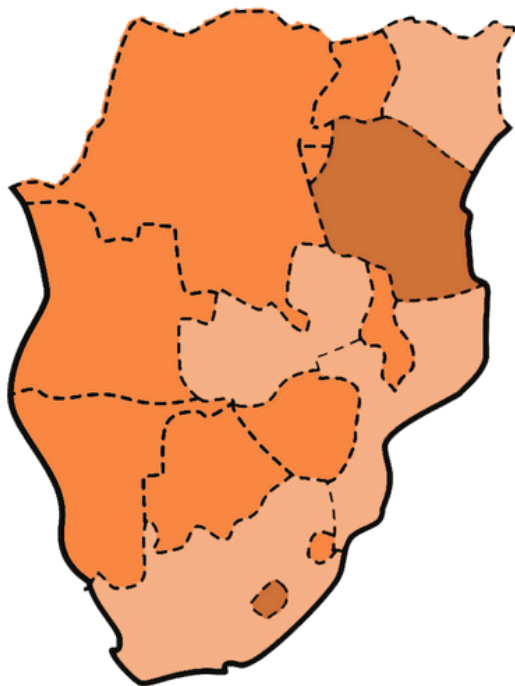


Figure 1: Heat map showing the rating of 14 ESA countries in terms of their engagement with migrant AYP in relation to access to SRHR and HIV/AIDS.

|                           |                                                                                                                                                                                                                                                                                                           |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>FULL ENGAGEMENT</b>    | Country has a comprehensive legislative framework that identifies migrant AYP as a vulnerable group and addresses intersecting issues of migration, and SRHR. Country also explicitly includes migrant AYP in policies and laws and sets out clear provisions, protections and guidelines.                |
| <b>LIMITED ENGAGEMENT</b> | Country has a limited legislative framework that identifies migrant AYP as a vulnerable group and starts to address all or some of the intersecting issues of migration, and SRHR. Country implicitly includes migrant AYP in policies and laws and sets out some provisions, protections and guidelines. |
| <b>NO ENGAGEMENT</b>      | Country has a weak legislative framework to address migrant AYP as a vulnerable group and fails to address intersecting issues of migration, and SRHR. Country also fails to include migrant AYP in policies and laws and sets out clear provisions, protections and guidelines.                          |

## COMPREHENSIVE ENGAGEMENT

- **Kenya:** Kenya has a strong integration of migration and health policies with explicit protections for vulnerable populations. **The National Migration Policy (2016)** recognises the vulnerabilities and rights of migrant youth while **The National AIDS Control Policy (2017)** and **the Kenya HIV and AIDS Strategic Framework** acknowledge the vulnerabilities of migrant AYP and mobile populations, outlining strategies to address their needs and reduce HIV-related stigma.
- **Mozambique:** Mozambique has a solid legal framework protecting children's rights, including migrant children and those with HIV. **The Law on Promotion and Protection of the Rights of the Child (2008)** guarantees rights to healthcare, education, and justice for all children, regardless of nationality or immigration status. **The National HIV Prevention Roadmap (2020-2025)** and **Five-Year Government Plan (2020-2024)** include provisions for refugees and other migrants, but don't explicitly mention healthcare rights or migrant AYP. Although integrated with existing HIV/AIDS initiatives, **the Agenda 2025 (2003)** doesn't specifically address HIV/AIDS or migrant AYP.

- **South Africa:** South Africa has a rights-based framework for healthcare delivery, with **the Constitution** and Refugee Act guaranteeing access to healthcare for all. However, restrictive immigration policies limit access for migrants. **The National Adolescent SRHR Framework Strategy (2014-2019)** and **the National Strategic Plan for the Prevention and Control of Non-Communicable Diseases (2020-2025)** don't explicitly consider migrant AYP. However, **the National Child Care and Protection Policy (2019)**, addresses the needs of migrant AYP, including access to healthcare and protection from discrimination. **The South African National Strategic Plan for HIV, TB, and STIs 2023-2028 (NSP)**, recognises migrants, mobile populations and undocumented individuals as a vulnerable group although there is no specific recognition of migrant AYP.
- **Zambia:** Zambia has a high degree of integration between migration and child protection policies including comprehensive protection for migrant AYP. **The Children's Code Act (2022)** grants every child the right to the highest standard of health and **The Refugees Act** provides protection and support for refugees, including unaccompanied children. Additionally, **the National Referral Mechanism (NRM) for the Protection of Vulnerable Migrants (2014)** identifies and assists various categories of migrant AYP, including victims of trafficking, unaccompanied children, and stranded migrants.

## MODERATE ENGAGEMENT

- **Angola:** Angola's policies address adolescent health and HIV/AIDS, but there are no specific policies for migrant youth or concrete regulations for access to social services, documentation, and participation. However, policies like **the National Strategic Plan for the fight against HIV/AIDS (PENCSIDA)** and **the National Policy for Adolescent and Youth Health** recognize migrant youth's specific needs and outline strategies to address them.
- **Botswana:** Botswana has policies addressing the needs of migrant AYP and HIV/AIDS prevention. However, these policies often lack explicit provisions for migrant AYP and may exclude non-citizens from certain healthcare services. While some policies like those for HIV/AIDS and TB provide access to services regardless of documentation status, others, such as **the Essential Health Service Package (EHSP)** and **Integrated Health Service Plan (HSP)**, exclude non-citizens from receiving free healthcare. **The National Plan of Action for Orphans and Vulnerable Children (2019-2023)** provides a comprehensive framework for interventions with a strong commitment to promoting access to HIV and SRHR for all OVCs.
- **Eswatini:** In Eswatini a range of policies address adolescent health and HIV/AIDS, but lack specific provisions for migrant AYP. **The Child Protection and Welfare Act (2012)** prohibits discrimination but does not explicitly address the needs of migrant youth. However, **the National Plan of Action for Children in Eswatini 2023-2027** aligned with the SDGs includes a broad range of interventions that could benefit migrant AYP, particularly those related to access to HIV/AIDS treatment and child protection.
- **DRC:** While its constitutional framework guarantees the right to health for all, including non-citizens, specific policies addressing migrant AYP needs, particularly for HIV/AIDS and SRHR, are lacking. **The National Strategic Plan (NSP) for the Fight Against HIV/AIDS (2020-2025)** recognises youth vulnerability to HIV/AIDS but doesn't explicitly address migrant youth. **The Child Protection Code (2009)** includes migrant children but doesn't explicitly address their HIV/AIDS and SRHR needs. **As a member of both SADC and EAC (joining EAC in 2022), the DRC sits at a unique intersection of regional frameworks. This presents an opportunity to strengthen cross-border healthcare coordination, particularly along its eastern borders with other EAC members.**

- **Malawi:** Malawi has policies recognizing the link between HIV and migration and the need for targeted interventions. **The National Health Policy (2018-2030)** and **the National HIV/AIDS Policy (2003)** recognize mobile populations, including AYP, as vulnerable groups and call for non-discrimination in access to HIV services. However, specific strategies addressing the needs of adolescent migrants are lacking. **The Child Care, Protection and Justice Act (2010)** provides a comprehensive framework for child protection but defines children as under 16, excluding some migrant AYP.
- **Namibia:** Namibia's policies addressing child protection and health, including vulnerable groups lack explicit inclusion of migrant AYP. Although **the National Strategic Framework for HIV/AIDS 2017/2018-2021/2022** includes migrant AYP **the National Policy on Sexual, Reproductive and Child Health (2012)** does not specifically address migrant AYP. **The Children's Act (2005)** provides protections for all children without distinction, but without specific reference to migrants, its applicability is ambiguous.
- **Uganda:** Uganda's Constitution guarantees fundamental rights for all children, including migrants. However, specific policies addressing the needs of migrant AYP are lacking. **The Children's Act (2005)** does not explicitly address migrant AYP. **The National Policy on Orphans and Vulnerable Children (OVC) (2010)** recognizes the vulnerability of migrant AYP and includes them in its target groups, although without explicit reference.
- **Zimbabwe:** Zimbabwe's legislative framework provides limited protection for migrant AYP. **The Constitution** guarantees rights for citizens and non-citizens, but migration governance is securitized, restricting access to basic healthcare for migrants. **The National Development Strategy (2021-2025)** fails to comprehensively engage with migration and the needs of migrant AYP. **The National HIV/AIDS Strategic Plan (2021-25)** and **The National Youth Policy (2013)** does not explicitly include migrant AYP.

## MINIMAL ENGAGEMENT

- **Lesotho:** Lesotho has policies that could indirectly benefit migrant AYP, but lacks specific provisions for their needs. **The National Health Policy** limits provisions to citizens while **the National HIV/AIDS Strategic Plan 2019-2023** recognizes the vulnerability of young people, but lacks specific interventions targeting migrant AYP's needs for HIV prevention, testing, and care.
- **Tanzania:** While its policies address child protection and vulnerable groups, including migrant children, **the Constitution** does not explicitly mention healthcare access for migrants. **The Law of the Child (2009)** requires identifying and assisting unaccompanied and separated migrant children, but the **Immigration Act (2006)** potentially discourages reporting due to fear of arrest. **Tanzania's position within both SADC and EAC frameworks provides unique opportunities for cross-border healthcare coordination, particularly through the EAC's Integrated Health Programme and SADC's health protocols. However, its Health Sector Strategic Plan, while aiming for equitable healthcare, does not directly include non-citizens, missing opportunities to leverage both regional frameworks for comprehensive migrant healthcare access.**

## KEY FINDINGS FROM THE REVIEW:

- **Comprehensive National HIV/AIDS Strategies:** Most countries have comprehensive national HIV/AIDS strategies that outline approaches to prevention, treatment, care, and support. Many of these strategies explicitly address the needs of adolescents and implicitly include migrant AYP. Some countries, such as Angola, Mozambique, and Kenya, explicitly recognize migrant AYP as vulnerable populations.
- **Comprehensive SRHR Policies:** Policies related to SRHR are generally comprehensive and aligned with the SDGs. They address the need for access to comprehensive SRHR services for all populations, although the inclusion of migrant AYP is not explicit.
- **Restrictive Migration Frameworks:** Legal frameworks on migration are often restrictive and place limitations on the rights and healthcare access for migrant populations. Some countries, like Kenya and South Africa, have specific provisions addressing the rights of migrant AYP. However, restrictive migration policies can hinder access to healthcare, particularly for undocumented migrants.

South Africa highlights the tension between migration policy and health policies. Restrictive migration policies limit access to healthcare for undocumented migrants.

- **Limited Engagement in Specific Needs:** The majority of countries lack policies that specifically address the unique needs and challenges of migrant AYP. While general healthcare policies may include migrants, they often do not address their specific vulnerabilities.

An exception is Angola's National Policy for Adolescent and Youth Health (2017), which outlines a holistic approach to adolescent health and emphasizes the need to collaborate with existing health programs, including HIV/AIDS prevention and care initiatives, to ensure migrant AYP have access to essential services.

Overall, while there is progress in addressing the needs of migrants AYP, there is a need for more targeted policies and programs to ensure that they have access to quality healthcare and HIV/AIDS services.

## KEY POLICY GAPS

### KEY FINDINGS:

- **Comprehensive National HIV/AIDS Strategies:** Most countries have comprehensive HIV/AIDS strategies that address the needs of AYP including migrant AYP. Some countries explicitly recognize migrant AYP as vulnerable populations. Examples include Angola's National Strategic Plan for the fight against HIV/AIDS, Mozambique's National HIV Prevention Roadmap, and Kenya's HIV and AIDS Strategic Framework.
- **Comprehensive SRHR Policies:** Policies related to SRHR are generally comprehensive and aligned with the SDGs. However, the inclusion of migrant AYP is not explicit.
- **Restrictive Migration Frameworks:** Legal frameworks surrounding migration are mostly restrictive, hindering access to healthcare for migrant populations. Some countries have specific provisions addressing the rights and healthcare access for migrant AYP, such as Kenya and South Africa.
- **Limited Engagement in Specific Needs:** Most countries lack specific policies addressing the unique needs of migrant AYP. However, some countries like Angola have policies that recognize and address the needs of migrant youth.

**There is a need for more targeted policies and programs to address the specific needs and challenges faced by migrant AYP in the region, in relation to healthcare and HIV/AIDS.**

**The majority of countries across the region have limited engagement with the specific needs and challenges of migrant AYP in terms of access to healthcare and HIV/AIDS care. There is a need for more explicit and targeted interventions to address their specific challenges and ensure access to essential services.**

**FIGURE 2: BUILDING POLICY AND PRACTICE TO SUPPORT MIGRANT ADOLESCENTS AND YOUTH LIVING WITH HIV AND AIDS**



# RECOMMENDATIONS



## 1. Policy Development and Reform

- Develop specific policies targeting migrant adolescents living with HIV/AIDS
- Strengthen integration between migration and health policies
- Include explicit protections for undocumented migrants
- Harmonize national policies with regional frameworks



## 2. Implementation Strengthening

- Establish clear implementation guidelines
- Develop monitoring and evaluation frameworks
- Build capacity of healthcare workers
- Strengthen cross-border coordination



## 3. Documentation and Access

- Simplify documentation requirements for healthcare access
- Create alternative identification systems
- Establish clear protocols for undocumented migrants
- Remove citizenship requirements for essential services



## 4. Rights Protection

- Strengthen legal protections for migrant adolescents
- Develop anti-discrimination frameworks
- Ensure access to legal recourse
- Protect patient confidentiality



## 5. Leverage Regional Complementarity and Coordination

- Harmonize SADC and EAC health frameworks where they overlap
- Strengthen cross-border health referral systems between EAC and SADC regions
- Develop integrated monitoring systems that can track migrant AYP healthcare access across both regional blocks
- Use Tanzania and DRC's dual membership to pilot integrated regional approaches to migrant healthcare
- Work with regional child advocacy coalitions

# PRIORITY ACTIONS

### Immediate Term (0-12 months)

- Review and update existing policies to include explicit protections
- Develop implementation guidelines
- Establish monitoring frameworks
- Begin capacity building programs

### Long Term (3-5 years)

- Harmonize national and regional frameworks
- Establish sustainable funding mechanisms
- Develop integrated healthcare systems
- Create permanent coordination structures

### Medium Term (1-3 years)

- Reform migration policies to improve healthcare access
- Strengthen regional coordination mechanisms
- Develop comprehensive data collection systems
- Implement cross-border health initiatives

# CONCLUSION

The brief highlights a complex interplay between HIV/AIDS strategies, migration policies, and adolescent and young people (AYP) health policies across the ESA region. While several countries have made significant efforts to address the needs of migrant AYP, including through national HIV/AIDS strategies, there is a need for more explicit recognition and targeted interventions. The restrictive nature of migration policies in some countries further exacerbates the challenges faced by migrant AYP in accessing essential health services. The absence of specific recognition of the diverse needs and challenges faced by migrant AYP of differing ages, including age-specific sexual and reproductive health care, also leaves youth vulnerable.

To effectively address the needs of migrant AYP, a more holistic and integrated regional approach is imperative, requiring collaboration among health, education, and migration sectors. By adopting a comprehensive and collaborative approach, the region can better meet the specific needs of migrant AYP and improve their overall health and well-being.