



# THE AFRICAN CONTINENTAL FREE TRADE AREA AGREEMENT

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ITS IMPLICATIONS ON CROSS-BORDER ISSUES AFFECTING CHILDREN

December 2020



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Girls Advocacy Alliance (GAA)

GAA members include Plan International African Union Liaison Office, Terre des Hommes Netherlands, ECPAT International, and Defence for Children International (DCI-Sierra Leone).



## EXECUTIVE SUMMARY

The Africa Continental Free Trade Area (AfCFTA) was launched in 2018 and ratified in Niger in July 2019. The agreement promises to create a US\$ 2.5 trillion market by removing trade barriers and enabling the movement of Africans across borders. Increased intra-Africa trade will avail opportunities through expanding job opportunities. Both formal trade and informal cross border trade will grow as the continent reaps the benefits of closer regional cooperation.

Trade agreements can have positive and sometimes negative impacts on vulnerable groups. For example, for groups such as children and adolescents, increased cross-border trade could exacerbate ongoing challenges like child marriage, commercial sexual exploitation of children (CSEC), and child trafficking. Also, increased trade and the associated expansion of economic opportunities could push children out of school and into further engagement in child labour within an environment of poorly enforced child labour laws. Against the above background, the Girls Advocacy Alliance (GAA) comprising of Plan International African Union Liaison Office, Terre des Hommes Netherlands, ECPAT International and Defence for Children International (DCI-Sierra Leone) commissioned a study titled *“the African Continental Free Trade Area Agreement: Its Implications on Cross-Border Issues Affecting Children”*.

The analytical framework adopted for this report considers two primary pathways through which the AfCFTA may affect children. First, the provisions relating to trade facilitation in the agreement can affect non-tariffs barriers, and these ultimately affect female participation in informal cross border trade. Second, the enforcement of

domestic policies as well as international standards, can determine whether girls, young women children and end up participating in trade.

Women continue to dominate cross border trade but remain highly informal and operate on a small scale. Various constraints including economic reasons—mainly the lack of access to affordable financial services—but also lack of networks and connectivity affect the growth of women-led trade enterprises. As a result, women face higher trade costs as they are forced to rely on middle-men and go-betweens to ferry goods across borders. On the plus side, several regional projects are supporting attempts to move women to some form of formalisation by encouraging and helping them to work through cooperatives.

Sexual harassment, intimidation, discrimination, and other forms of exploitations are routinely experienced by female cross border traders. Women face sexual harassment from both customs officials and security agencies in exchange for trade and border crossing services. Harassment has continued over the years worsened under the COVID-19 pandemic. Women often fear to engage the exploiters and sometimes choose to use unofficial border-crossings when faced with repeated threats of exploitation. Furthermore, due to limited child-care opportunities, some young women have to go to work with their children who are in turn (especially young girls) exposed to exploitation and sexual overtones.

There is no uniform or strict enforcement of legislations regarding travelling with children across borders, and this can increase the threat of child trafficking. Furthermore, it is not easy to establish the parents of the child due to the absence of easily verifiable

official documentation, e.g. national ID, passports and birth certificates. However, some countries, e.g. Rwanda strictly enforce legislations regarding travelling with children across the border; without the acceptable documentation, a mother or a caretaker cannot travel across any Rwandese border with a child.

Despite the operation of the simplified trade regime (STRs) in some regional economic communities (RECs) which set

the thresholds below which goods are not taxable—border procedures are not correctly understood and not appreciated by women informal cross border traders. Poor comprehension of border procedures leaves women vulnerable to exploitation as they pay for tax-free goods. It also compels women traders to use unofficial or unpatrolled border crossing—partly as a means of avoiding interfacing with unfamiliar border procedures.

## RECOMMENDATIONS FOR ACTION

Alongside accelerating efforts to start the operation of the AfCFTA agreement and negotiate future protocols, we call upon AU State Parties – supported by the AfCFTA Secretariat, Regional Economic Commissions, development partners and civil society – to take the following actions:

1. Establish an AfCFTA sub-committee on human rights
2. Recognise sexual harassment as a non-tariff barrier.
3. Ensure that labour standards are part of future protocols of AfCFTA.
4. Collect gender-disaggregated data on informal cross border trade
5. Develop an AfCFTA gender policy
6. Develop minimum standards for One-Stop Border Posts (OSBPs)
7. Harmonise existing trade agreements with the AfCFTA
8. Harmonise and popularise cross-border trade charters and codes of conducts
9. Implement the simplified trade regime
10. Fund nationwide birth registration to address child trafficking
11. Establish infrastructure at border crossing appropriate for women
12. Ensure a gender balance for border personnel.
13. Decentralise the system of trade certification
14. Establish a system of reporting on the implementation of the trade agreement.
15. Development partners should finance the development e-based platform for monitoring the AfCFTA
16. Donors should support the establishment of infrastructure suitable for women.
17. CSOs should monitor and address child trafficking at border crossings.
18. Girls should use established companies when seeking external employment opportunities.
19. Young women and girls should be encouraged to report incidents of child trafficking and CSEC.

# 1. INTRODUCTION

The Africa Continental Free Trade Area (AfCFTA) was launched in 2018 and ratified in Niger in July 2019. The agreement promises to create a US\$ 2.5 trillion market by removing trade barriers and enabling the movement of Africans across borders. In March 2020, the first Secretary-General of the AfCFTA was sworn-in followed with the inauguration of the AfCFTA Secretariat in August 2020, which was hosted in Accra Ghana. Due to the COVID-19 pandemic, the commencement of operationalization of the agreement is set to commence in January 2021. The agreement targets to increase intra-Africa trade from the current level of 17 per cent to double the figure within ten years of implementation<sup>1</sup>. Increased intra-Africa trade will avail opportunities through expanding job prospects. Both formal trade and informal cross border trade is expected to grow as the continent reaps the benefits of closer regional cooperation.

With the adoption of Agenda 2063 - especially Aspiration 6 - and Sustainable Development Goal (SDG) 5 targeting gender equality, trade issues are important in the context of young women's human rights. There is indeed increasing recognition that inclusive trade policies can advance women's empowerment. On the other hand, trade agreements can have unintended consequences on women's human rights. For example, trade in food products is likely to increase, and if overall food prices rise,

this can adversely affect young women and child's nutrition as well as mortality. Increased demand for food exports can drive up local food prices affecting the affordability of food for local consumers and these can ultimately impact the nutrition of infants.<sup>2</sup> However, it is also possible that increased food prices could improve women's disposable income, and this can be used to improve nutritional value for children. Furthermore, large scale infrastructure development could displace vulnerable groups.<sup>3</sup> Large-scale transport infrastructure projects such as the Suez Canal project in Egypt and Lagos metropolitan and governance project in Nigeria have necessitated resettlements of populations.

From a human rights perspective, the 2003 Maputo Protocol provides that every woman shall be entitled to respect of her life, integrity and security of her person. At the same time, women constitute the majority of Informal Cross Border Traders (ICBTs). They are often subject to abuse and harassment contrary to the human rights standards agreed to by African Union Member States. Sexual abuse by border and immigration officials is a regular occurrence and a violation of women's right to security of persons.<sup>4</sup> Box 1 illustrates how the RECs guarantee the free movement of persons, including traders across borders.

1 Songwe (2019) Intra-African trade: A path to economic diversification and inclusion. Brooking Institution

2 Holmes, R., N. Jones and S. Wiggins (2008) Understanding the impact of Food Prices on Children, ODI

3 For example, the construction of dams in Africa e.g. Aswan High dam in Egypt, the Akosombo dam in Ghana, Dadin Kowa dam in Nigeria and the Katse and Muela dams in Lesotho have displaced large sections of the population (Adeola, 2016).

4 United Nations Economic Commission for Africa and Friedrich Ebert Stiftung, Geneva Office (2020) The Continental Free Trade Area (CFTA) in Africa- A Human Rights Perspective.

### Box 1: RECs and the free movement of persons

The 1990 ECOWAS Protocol on the Free Movement of People and Goods addresses the trafficking of persons, especially women. Article 2.1 of the ECOWAS Protocol on Free Movement of Persons, Right of Entry and Establishment, states that *“The Community citizens have the right to enter, reside and establish in the territory of Member States”*. However, some women traders in West Africa appear unaware of this provision despite ratification. Beyond ECOWAS, other RECs address movement of persons across borders. For example, Article 7 of the EAC Common Market protocol regarding the EAC Rules and Regulations on the movement of persons guarantees the free movement of persons. Nonetheless, this regulation is not fully operationalized as immigration controls remain.

Border officials in most countries often concentrate on upholding immigration laws and their enforcement comes at the expense of tracking potential violation of human rights through trafficking in person, forced sex or commercial sex. As such, if the AfCFTA implementation by State Parties ignores women ICBTs, it could risk entrenching a situation which exposes them to a range of human rights abuses. However, when immigration and other security officials become strict on enforcing travel documentation and as such prevent human trafficking, women engaged in cross border trading who usually depend on the cheap labour of children resort to using informal borders. Use of such unpatrolled crossings has its implications, including putting the young women at risk of rape and other forms of exploitation as well as enhancing cross border human trafficking (Jacobson and Joekes, 2019).<sup>5</sup>

**Opening up borders for increased formal trade could potentially squeeze women ICBTs:** Increased business as a result of

AfCFTA could also result into increased competition for women as men move from high-value trade to low-value trade dominated by women. Similarly, the expected increase in the number and depth of African multinationals corporations could also increase the scale of competition faced by women cross-border traders.

Traditionally, trade agreements have positive and sometimes negative impacts on vulnerable groups. For example, children and adolescents, increased cross-border trade could exacerbate ongoing challenges such as child marriage, commercial sexual exploitation of children (CSEC), and child trafficking. Also, increased trade and associated expansion of economic opportunities could push children out of school and into more child labour in an environment of poorly enforced child labour laws. Against the above background, the Girls Advocacy Alliance (GAA) comprising of Plan International African Union Liaison Office, Terre des Hommes Netherlands, ECPAT International and Defence for

<sup>5</sup> Jacobson, J and S. Joekes (2019). Violence against Women Traders at Border Crossings: WOW Helpdesk Query 31

Children International (DCI-Sierra Leone) commissioned a study titled *“the African Continental Free Trade Area Agreement: Its Implications on Cross-Border Issues Affecting Children”*.

The objectives of the study are to:

- i. Examine the most significant implications of the AfCFTA on cross-border issues affecting children such as child marriage, commercial sexual exploitation of children, child trafficking and migration etc.
- ii. Assess the extent to which the negotiations that led to the establishment of the AfCFTA had incorporated human rights perspectives.
- iii. Review how far State Parties which ratified the agreement are prepared to provide legal protection to the most vulnerable groups of society like children and girls from the unintended consequences of open trade policies.
- iv. Identify whether the AfCFTA can overcome the challenges that informal cross border traders (who are primarily women) face and harness their potential.

The broad objective of the study is to build evidence to inform advocacy for actions by African countries on the AfCFTA and its potential implications for the protection of girls and young women on the continent.

## LIMITATIONS OF THE STUDY

This study is limited in several respects. Firstly, there is a shortage of evidence and literature that examines the AfCFTA since it came into force only in 2019 and its actual implementation was delayed—partly due to the COVID-19 pandemic. Secondly, in most African countries, there is generally very limited published official information on the challenges of informal cross-border trade and how such trade affects child protection. Third, from a child rights perspective, the available evidence does not consider whether different groups of children are impacted differently by cross border trade, i.e. infants and adolescent girls. The

only exceptions are with respect to child labour, and birth registration—which may be required in case a caretaker routinely crosses the borders and at the same time supports a breastfeeding child. Due to the COVID-19 pandemic and associated travel restrictions (both international and within State Parties) it was not possible to undertake fieldwork as part of the study. Nevertheless, the contextual, quantitative, and qualitative information gathered in this study adds to the evidence base on the likely impact of the AfCFTA agreement on children and adolescent girls in Africa.



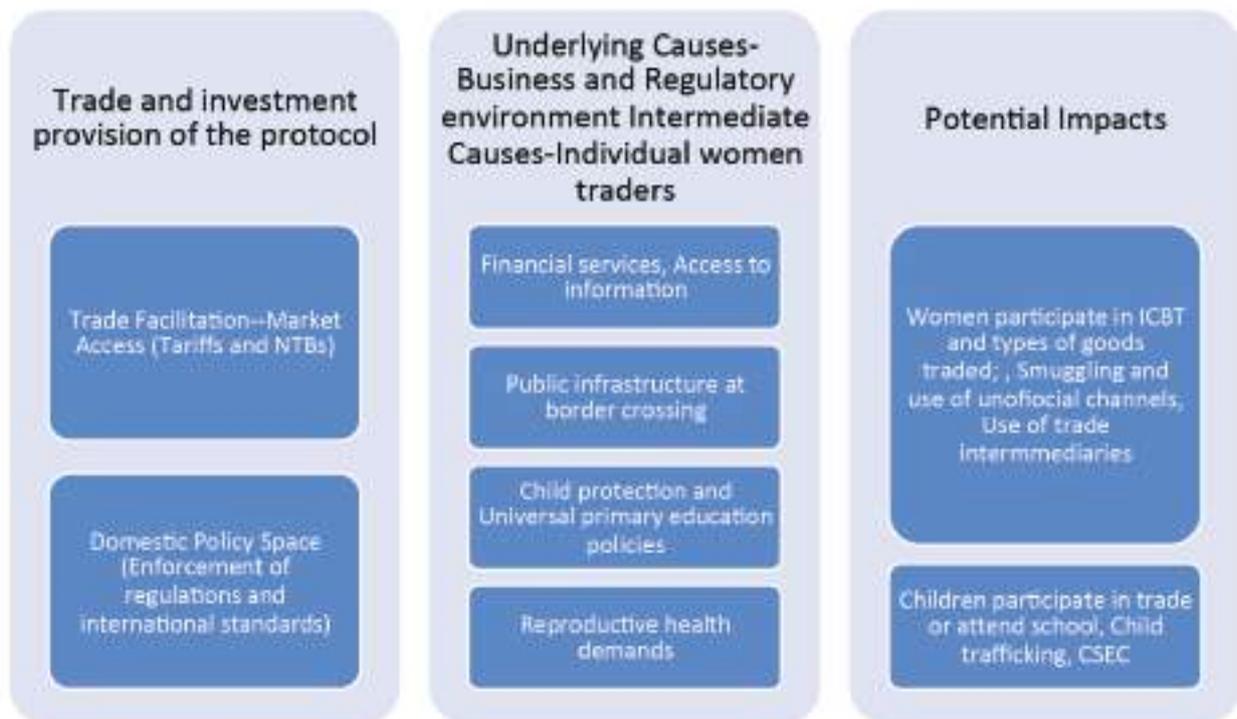
## 2. METHODS

### ANALYTICAL FRAMEWORK

Following Schram et al., (2018)<sup>6</sup>, who examined the impact of international trade and investment agreements on non-communicable diseases, this study considers two primary pathways through which the AfCFTA may affect young women and children. First, the provisions relating to trade facilitation in agreements can affect Non-Tariff Barriers (NTBs) and these ultimately affect female participation in trade. Second, the enforcement of domestic policies as well as international standards

can determine whether children end up participating in trade. The above two factors impact the underlying business environment (e.g. access to information on trade, financial services, and public infrastructure available at the border crossing) as well as the behaviour of individual traders (e.g. whether to use official or unofficial border crossings or whether to keep children in school or have them help out in the trade business); this is illustrated in a simple diagram below.

**Figure 1 Illustration of analytical framework**



Source: Adapted from Scram et al., (2018)

<sup>6</sup> Schram, A., A. Ruckert., J.A. VanDuzer et al (2018) "A conceptual framework for investigating the impacts of international trade and investment agreements on non-communicable disease risk factors" Health Policy and Planning, Vol 33: 123–136

## DATA SOURCES

This study relied on four key elements:

### A comprehensive literature review

A desk review focusing on available literature on informal trade and its effects on children and young women in Africa was conducted. In particular, we examined how the AfCFTA especially relating to how the negotiations that led to the agreement took into account the human rights perspective of vulnerable groups.<sup>7</sup> The study also examined how existing regional economic commissions (RECs), e.g. Economic Community of West African States (ECOWAS), East African Community (EAC), Southern African Development Community (SADC), Intergovernmental Authority on Development (IGAD), and the Common Market for Eastern and Southern Africa (COMESA) do address issues of gender and trade as well as children rights.

### Key informant interviews

Several stakeholders were interviewed as key informants. First, we interviewed women leaders of cross border cooperatives. Secondly, we interviewed gender and trade experts at the RECs—notably COMESA and EAC. In addition, we interviewed civil society organization (CSO) experts as well as trade experts from Zambia, Zimbabwe, Sierra Leone, Uganda, and Kenya. Finally, we interview adolescent girls—mainly victims of trafficking—to capture their voices, especially with respect to trafficking and child labour. These key informant interview also captured views of how the aftermath of the COVID-19 pandemic has affected cross border trade.

### Secondary data analysis

The desk review was complemented by secondary data analysis of associations between informal trade and child labour, child marriages, early childbearing, and young women’s educational attainment in Africa. The source of data used in the analysis are the Multiple Indicator Cluster Surveys (MICS), and the Demographic Health Survey (DHS). MICS surveys are collected by UNICEF and have a detailed child labour module which gathers data on any economic activities for children aged 5-17 years. At least 19 African countries have MICS surveys conducted during 2014-2019, and these are used in the analysis.<sup>8</sup>

The DHS surveys are collected by the national statistical agencies in collaboration with ICF International Inc. The surveys are part of a global effort, supported by the United States Government, to monitor and evaluate population, health, and nutrition programmes in developing countries in five-year intervals. The DHS are a nationally representative survey of women aged 15 to 49 and their children, and the surveys are reasonably comparable. The datasets contain detailed information on age at first marriage, age at first birth, school attendance and education attainment. At least 22 African countries implemented DHS surveys during 2014-2019 and these were used in the analysis.<sup>9</sup> The MICS and DHS surveys are used to derive estimates for young women and children exposed to child labour and early child-bearing partly due to trade-related activities.

7 The documents reviewed include: Agreement and the annexes establishing The Continental Free Trade Area—A Human Rights Perspective by UNECA; Aid for Trade and the empowerment of women and young people by UNECA and WTO; Labour market effects of AfCFTA by GIZ, and Sexual Exploitation of Children in Africa: A Silent Emergency by Africa Child Policy Forum and Oak Foundation.

8 These countries are: Zimbabwe (2019), Lesotho (2018), Tunisia (2018), Madagascar (2018), Gambia (2018), DRC (2017), Ghana (2017), Sierra Leone (2017), Togo (2017), Nigeria (2016), Guinea (2016), Mali (2015) Republic of Congo (2015), Benin (2014), Cameroon (2014), Guinea-Bissau (2014), Malawi (2014), Mauritania (2014), Sao Tome and Principe (2014), Sudan (2014) and Togo (2014). See the See the See the MICS website for further details about the surveys.

## Case studies

The study highlights some salient issues on how children and young women are affected by the cross-border trade environment in different regions of Africa. The analysis provides in-depth coverage of case studies

in 6 African countries, namely, Egypt (North Africa/COMESA), Sierra Leone (ECOWAS), Zimbabwe (SADC), Ethiopia (IGAD), Kenya and Uganda (EAC). Each country represents one of the five major sub-regions within the African Union.



9 The countries are: Zambia (2018), Senegal (2018), Cameroon (2018), Nigeria (2018), Mali (2018), Guinea (2018), Benin (2017), South Africa (2016), Uganda (2016), Burundi (2016), Ethiopia (2016), Angola (2016), Malawi (2015), Tanzania (2015), Zimbabwe (2015), Chad (2015), Rwanda (2015), Egypt (2014), Ghana (2014), Lesotho (2014), Kenya (2014), Democratic Republic of Congo (2013), Namibia (2013) and Sierra Leone (2013). The DHS website. The DHS website, has the details on the used surveys.



## 3. THE AFCFTA

### THE AGREEMENT AT A GLANCE

#### Secretariat

As earlier mentioned, one of the significant institutional frameworks for implementing the agreement is the AfCFTA Secretariat established through Article 13 of the agreement. As noted earlier, the secretariat which is hosted in Accra, Ghana, was inaugurated in July 2020. The Secretariat is vested with the responsibility of facilitating the procedures for execution as well as the monitoring and evaluation of this Protocol. In addition, the Secretariat will also be responsible for establishing an “NTB Coordination Unit” to manage the process of elimination of NTBs. Furthermore, the Secretariat shall also serve as arbitrator by appointing a facilitator in case State Parties have unresolved complaints regarding NTBs. The Secretariat will also be a depository for information regarding customs commission agents. Specifically, in case a State Party’s law provides for the use of customs brokers or agents, such a State Party is required to notify the Secretariat and publish its measures on the use of such intermediaries.

#### Rules of Origin

Article 13 of the AfCFTA relating to the Rules of Origin requires that an exporter or a trader submits an **“Origin Declaration”** relating to the manufacture, production and supply of the goods to be exported/imported. However, Article 5 regarding **“Wholly Obtained Products”** specifies that agricultural products—in particular plants

and live animals—are considered wholly obtained in a State Party. Furthermore, Article 28 relating to the Rule of Origin Annex offers an exemption for providing Proof of Origin for goods valued at less than US\$ 500. As earlier noted, women ICBTs mainly trade in low-value agricultural produce, and the above provisions should support them to pursue trade without additional filing requirements.

#### Trade Facilitation

The AfCFTA proposes to deal with the institutional environment at border crossings through enhanced trade facilitation. Among other measures, it proposes to simplify and harmonise trade procedures required to process goods. It calls for full publication of all the necessary procedures to ensure increased compliance. Specifically, Article 4 on Trade Facilitation states that information regarding **“a description of procedures and practical steps needed for the importation, exportation, and transit, including port, airport, and other entry-point procedures, and required forms and documents”** should be made available on the internet. Also, any export prohibitions should be duly notified and publicised. Full publication of procedures is critical, given that not all available policies are known to women traders. For example, the Simplified Trade Regime (STR) in the COMESA sub-region is not fully understood and used by women in the sub-region.

The AfCFTA calls for increased trade facilitation through fast-tracking of the clearance of perishable goods. Agricultural produce is easily perishable without adequate storage facilities. ICBTs are likely to lose out since their agricultural produce may get to market already damaged and consequently commands lower prices. Longer waiting times at the border subsequently affect the value of agricultural produce. The proposal to fast-track perishable goods should therefore benefit women ICBTs given their significant representation among traders of agricultural produce.

Furthermore, the AfCFTA it calls for border agency cooperation—partly through the establishment of One-Stop Border Post (OSBP) control procedures. Trade facilitation is of critical importance to women ICBTs as the time taken to clear customs, and other immigration formalities are presently not sensitive to women’s dual roles. Many women traders spend an exceptionally long time in queues trying to clear customs some up to 5 hours, where 15-30 minutes should have sufficed. Long durations at the border crossing confuse traders, and this could push them to use unofficial border crossings which although more expedient may turn out to be very risky.

### Move towards the elimination of Non-Tariff Barriers (NTBs)

A key hallmark of the AfCFTA is the prioritization of the elimination of NTB to trade. Under Article 12, the AfCFTA proposes to establish a time-bound elimination

matrix that priorities NTBs with the most considerable impact on intra-regional trade. In part, the agreement also offers to establish a Sub-Committee on NTBs whose responsibility will be to periodically review and eventually eliminate NTBs in the AfCFTA. Also, at the national level, the AfCFTA calls for the establishment of a series of institutions like an NTB Coordination Unit, National Monitoring Committees and the National Focal Points—all targeting to eliminate NTBs. Although the above institutions are an excellent first step in dealing with NTBs, they continue to affect women’s participation in cross-border trade. The specific NTBs impacting on women, e.g. sexual harassment, bribery, and lack of information are yet to be formally identified and consequently cannot be monitored and routinely reported at the national committees.

### Alignment of procedures

Article 25 relating to border agency cooperation calls for the cooperation of State Parties regarding border procedures to facilitate cross-border trade. It calls for the alignment of procedures and formalities. This specific requirement has implications on the way women ICBTs—especially those working with children—are handled. Presently, some borders allow them to cross without child documentation, while other border crossings explicitly require documents including birth certificates before a child can cross. As such, at the minimum the OSBP should have a facility where women can leave children as they cross the border.

## WHAT STANDS OUT IN THE AFCFTA AGREEMENT?

A notable standout in the agreement is the several attempts to address challenges relating to trade facilitation. First, the agreement recognises that NTBs are hindrances to intra-regional trade and proposes a series of measures to address identified NTBs. Secondly, the agreement targets to simplify and harmonise customs procedures, and this would make it easier for women to join ICBT and avoid using illegal border crossings. Third, the agreement provides for the establishment of information desks or “enquiry points” which can be used to offer information to small scale traders and hence reduce avenues for exploitation. Finally, the agreements advocate for the establishment of aggregation centres which can support small scale traders during transit. Article 11 relating to goods in transit, expressly discloses that *“State Parties shall endeavour*

*to establish or facilitate the establishment of Transit or customs areas for the temporary storage of transit Goods where the direct trans-shipment of Goods from one Means of Transport to another is not possible”.*

As noted earlier, the agreement prioritizes agricultural goods in recognition that these goods are perishable with a limited shelf life and thereby calls for fast-tracking the clearance of any perishable goods by State Parties. Article 14 under trade facilitation provides for the release of perishable goods *“in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities”.* Preferential release of perishable goods is a big plus for women cross border traders given that low-value agricultural products account for the largest share of goods traded.

## WEAKNESSES OF THE AGREEMENT

Some of the weakness of AfCFTA include the fact that labour standards are not part of the AfCFTA. As such, there are no specific provisions targeting child labour based on the ILO conventions, e.g. abolition of child labour (i.e. ILO Convention 138 relating to the minimum age of employment and 182 regarding worst forms of child labour). The absence of labour standards in the agreement follows a pattern similar to global trade agreements e.g, World Trade Organization (WTO)—where labour standards are excluded from the broad trade agreement—partly due to resistance for some State Parties. The AfCFTA focusses more on issues happening at the border and much less on activities that occur within boundaries of the State Parties, as such

issues affecting the working conditions within the limits of State Parties are not addressed. The implication for this is that without any requirements to enforce labour standards, they will be no protection of fundamental human rights. Secondly, without in-State Party enforcement of international child labour conventions, some State Parties stand to gain an unfair trade advantage—if they are exporting goods produced by children.

Although AfCFTA calls for both public and private representation to the National Monitoring Committee (NMC) for NTBs, there is no specific requirement that these committees should have women’s representatives. Given that large scale apex

bodies, e.g. manufacturers associations are given priority regarding when private-sector representation is sought, CSOs, e.g. women cross border trade association are likely to be excluded.

The AfCFTA attempts to deal with information asymmetry regarding cross border procedures by advocating for publication of all information regarding customs procedures on the internet. This partly addresses the need for traders to acquire information regarding any changes in trade policies in time, before arrival at the border. The agreement also supports the electronic submission of requisite documents, e.g. certificates of origin. However, in an environment characterized by limited education attainment and low internet penetration, such a move towards digital trade facilitation may be fruitless and ineffective for most ICBTs.

The current AfCFTA does not explicitly recognize women ICBTs and does not

acknowledge that women have both an economic and reproductive role. Specifically, a woman can be a trader, can also be pregnant and also have a baby or a child to look after. The AfCFTA instruments should have been able to better recognize and respond to young women's reproductive roles. Women should not be obliged to choose between their reproductive and economic duties. Concerning infrastructure, whereas the AfCFTA calls for the establishment of OSBP, it does not specify the minimum facilities that should be available at OSBP. For example, most border crossings do not have health posts that can offer basic health services. As such, a pregnant or a young woman travelling with a child cannot receive the most basic health attention, if need arises. It is worth noting that other border crossings, e.g. airports, have standby medics and health posts. On the other hand, the health posts recently established at land border crossings during the COVID-19 pandemic should perhaps transition into a permanent border feature.



## 4. THE AFCFTA AGREEMENT AND CHILD RIGHTS

### CHILD LABOUR

Protection of child rights and welfare is enshrined in several global and regional conventions including the UN Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC), EAC treaty and the Economic Commission of West African States (ECOWAS). For example, Article 15 of the ACRWC calls for protection of children from all economic exploitation. On the other hand, Article 13 section (g) on Economic and social welfare rights of the 2003 Protocol to the African Charter on human and people rights on the rights of women in Africa calls for the introduction of *“minimum age for work and prohibits the employment of children below that age, and prohibits, combats, and punishes all forms of exploitation of children, especially the girl child”*. The SADC Model Law bans children from engaging in work that is exploitative or dangerous to child health. The same law similarly calls upon state parties to ensure that any work performed by the child does not interfere with a child’s education. The SADC Model Law additionally identifies the informal sector as the leading destination for child workers and call for measures to regulate the informal economy as a means to control child exploitation in this part of the economy.

Nonetheless, despite the various child protection provisions in the above treaties, a large proportion of African children are actively involved in child labour. Table 1 shows the distribution of child labour for selected African countries based on the age and categorisation of work by the ILO, i.e. for all children aged 5-17 years as well smaller sub grouping for ages 5-11, 12-14 and 15-17 years. The 19 countries considered are those with a MICS conducted between 2014 and 2019—some of the surveys have a dedicated child labour module.<sup>10</sup> The table indicates that on average, about one out of every four children aged 5-17 years is involved in child labour. The rates range from 11 per cent in the Republic of Congo to 42 per cent in Cameroon.

Based on age groups, Table 1 shows that child labour rates are highest among older children aged 15-17 years as would be expected, followed by the 5-11 years and least among the 12-14 age category. On average, child labour rates among children 15-17 years are more than double the rates for children aged 12-14 years. However, the comparison between the 12-14 and 15-17 years age groups also has a wide variation. At least two countries notably Malawi and

<sup>10</sup> The child labour module in the MICS surveys enquires from all children aged 5-17 years whether they worked or helped at home or in a family business and the time spent on such activities in the past week. In addition, the surveys capture information on time spent by children engaged in income generating activities as well as household chores (e.g. fetching water, collection of firewood and cooking). Finally, the surveys capture any child involvement in hazardous work (i.e. carrying heavy loads, working with heavy machinery or exposure to fumes, chemicals or high temperatures). The duration engaged in the above activities or exposure to hazardous that is used to calculate the child labour rates in the table.

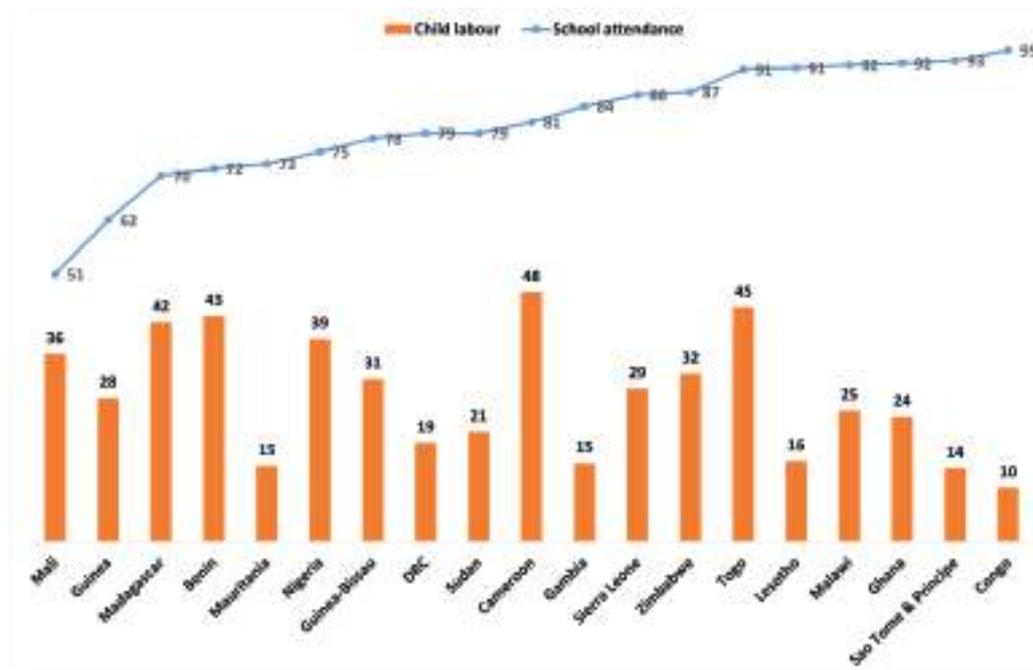
Country	All Children aged 5-17 years engaged in various forms of work.		Age specific child labour rates									
	All	Male	Female	Children aged 5-11 years engaged in 1 hour of economic work or 28hours of domestic work per week			Children aged 12-14 years engaged in 14 hours of econ. work or 28hours of domestic work			Children aged 15-17 years engaged 43hours of economic or domestic work or even hazardous work		
				All	Male	Female	All	Male	Female	All	Male	Female
Benin	42.1	42.1	42.1	44.8	44.1	45.5	33.3	32.2	34.5	38.8	44.4	32.2
Cameroon	42.4	43.5	41.4	39.1	40.6	37.7	41.6	42.8	40.2	54.1	55.1	53.4
Republic of Congo	10.6	13.0	8.4	12.8	15.0	11.0	5.8	7.5	4.0	12.0	16.7	7.8
DRC	16.6	14.9	18.1	14.5	13.4	15.5	13.3	9.3	17.4	26.8	27.6	26.2
Gambia	12.6	11.8	13.3	10.3	9.4	11.2	11.8	11.4	12.0	21.7	21.8	21.7
Ghana	21.1	19.8	22.3	20.5	18.8	22.1	13.1	11.4	14.8	34.1	34.8	33.3
Guinea	26.3	28.8	23.6	27.9	30.0	25.7	18.5	21.7	15.0	28.5	31.5	25.0
Guinea-Bissau	32.9	35.4	30.2	45.2	46.7	43.6	8.3	11.9	4.5	21.8	26.8	17.4
Lesotho	13.9	17.4	10.5	10.9	14.4	7.8	10.1	11.7	8.2	25.7	32.0	19.9
Nigeria	37.2	40.2	34.2	41.9	43.5	40.4	13.9	14.2	13.6	49.5	57.9	41.0
Madagascar	37.5	40.3	34.7	33.1	34.7	31.4	36.6	40.7	32.9	50.6	56.3	45.2
Malawi	24.3	24.6	23.9	26.2	26.4	26.0	8.5	8.4	8.6	40.8	41.7	39.7
Mali	35.3	36.3	34.1	38.3	39.3	37.2	20.7	20.5	21.0	43.0	47.7	37.8
Mauritania	14.7	14.7	14.8	15.7	15.5	15.9	5.3	4.5	6.1	23.1	25.2	21.3
Sao Tome & Principe	13.5	15.2	12.0	13.4	14.5	12.5	9.2	9.8	8.6	19.4	24.4	15.1
Sierra Leone	26.1	25.1	27.0	24.8	24.1	25.5	16.4	15.0	17.8	41.2	40.7	41.7
Sudan	18.5	20.1	17.0	19.2	20.7	17.6	9.3	9.3	9.3	27.6	30.3	24.8
Togo	39.5	39.5	39.6	35.1	36.1	34.2	37.6	36.3	38.8	55.5	52.8	58.4
Zimbabwe	29.2	34.6	23.2	32.2	38.8	24.9	20.8	25.8	15.8	27.8	29.5	25.6
<b>Average for countries</b>	<b>25.9</b>	<b>27.0</b>	<b>24.9</b>	<b>26.1</b>	<b>27.0</b>	<b>25.2</b>	<b>17.0</b>	<b>17.0</b>	<b>17.0</b>	<b>36.2</b>	<b>39.4</b>	<b>33.1</b>

Source: Author's calculations from the MICS surveys

Mauritania—have child labour rates for the 15-17 years category that are more than four times that of their 12-14 years category. On the other hand, in three countries namely Cameroon, Madagascar and Togo, at least one out of every two children aged 15-17 years are engaged in some form of child labour, suggesting that there is low school retention in these specific countries. The higher child labour rates among the 15-17 age category are explained by the fact that this age corresponds with the end of compulsory education—children are more likely to be forced into child labour if they are not continuing with education.

Figure 2 compares the child labour rates and school attendance among children aged 7-17 years. This age category is selected because, in some countries, primary schooling starts at age seven and not at age six. Countries with remarkably high school attendance have low rates of child labour. For example, 95 per cent of children aged 7-17 years in the Republic of Congo are attending school, and the corresponding child labour rate is only 10 per cent. The only outlier is Togo which has a school attendance rate of 91 per cent and a child labour rate of 45 per cent. This is explained by relatively exceedingly high participation of children aged 7-12 years in domestic work in Togo.

**Figure 2: Child labour and school attendance among children aged 7-17 years**



Source: MICs.

**Girls are generally less likely to engage in child labour;** however, child labour rates by gender vary considerably across countries and age groups. For all children combined, girls have higher child labour rates in 6 of the 19 countries considered. However, among the youngest children, aged 5-11, girls have higher rates of child labour in 8 of the 19 countries under consideration. In DRC, Ghana, and Guinea, a substantially larger proportion of girls than boys aged

5-11 years engaged in child labour. Overall, high rates of female child labour may reflect the higher burden of household work among girls in this age group. On the other hand, for children 12-14 and 15-17 years, boys consistently have higher child labour participation rates. However, in two West African countries—namely Sierra Leone and Togo, girls always have higher rates of child labour than boys regardless of age category.

Furthermore, the 2019 African Report on the Girls and the Law shows that 23 per cent of all girls in Africa (more than 80 million in total) are out of school while the continent has the highest teenage pregnancy rate in the world.<sup>11</sup> One of the reasons why girls are out of school is their engagement in trade activities, especially when supporting family enterprises. The same report notes that the available child protection national laws in many African countries are gender blind, i.e. fail to consider the unique vulnerabilities faced by girls.

**Children actively participate in informal cross border trade.** Children are lured by different factors to join cross border trade—these range from the influence of their parents to early exposure to “easy money”. For family businesses, children may be required to run the family enterprise as the parents ferry goods across the border. Child participation in running the family enterprises may expose the child to money, even when unpaid. Beyond the family business, border crossings are characterized by beehive-style activities, including money changers who may display a considerable amount of cash to vulnerable children. Exposure to the border community can serve as a pull factor for children out of school and into trading activities. Once exposed to cross border trade, children are more likely than not to drop out of school. Children exposed to both “easy money” and various routes for conducting cross-border business are unlikely to value the importance of continuing school.

*Children living in border communities like Jendema in Sierra Leone at the border with Liberia don't attend school on Fridays because they have to attend the periodic market (Luma), that bring together business people from different West African countries.<sup>12</sup>*

Finally, cross-border traders overtime can acquire substantial wealth, including property and cars, despite minimal education. Quick and easy wealth accumulation without skills can serve as a disincentive for children to continue with education. The demand for cheap labour could rise with the implementation of the AfCFTA. Increased trade activities and the inherent profit motive of business could drive the increased recruitment of underage children and in turn increase child labour in many African countries characterised by weak enforcement of child protection laws.

## CHILD MARRIAGE

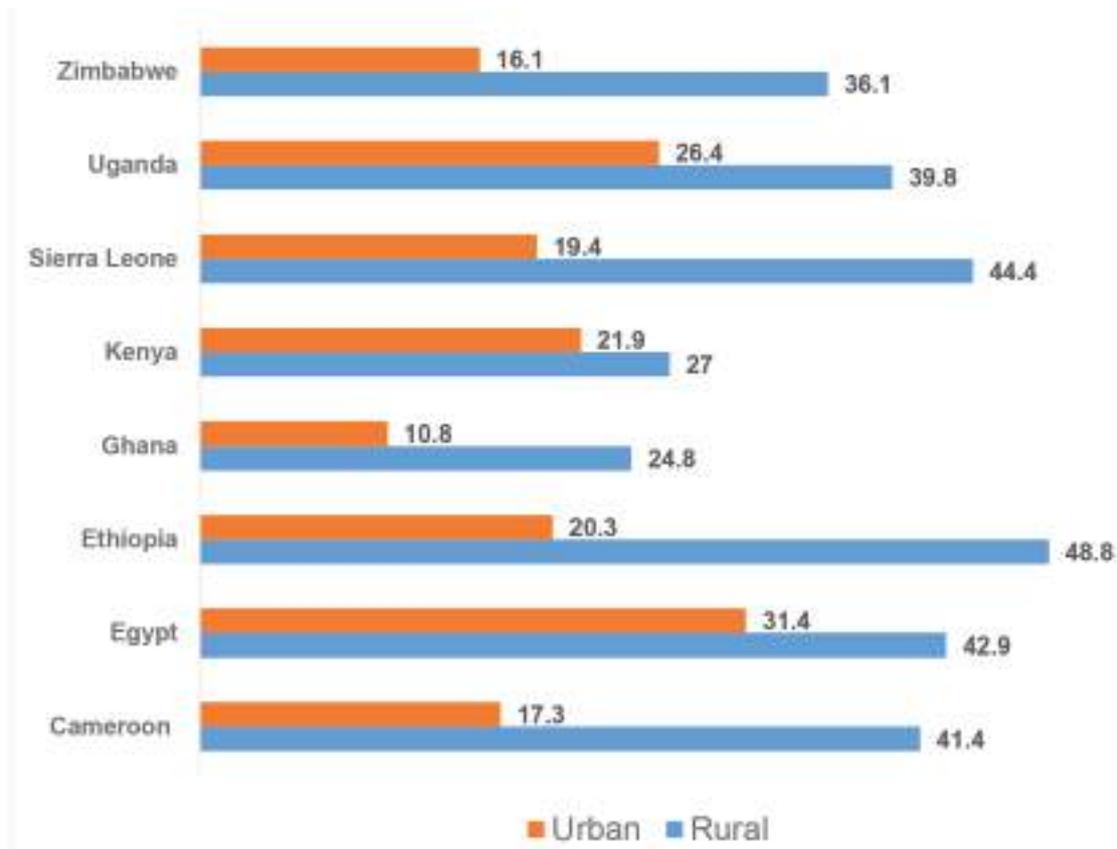
**There is a high prevalence of child marriages in Africa:** Globally, child marriage rates are highest in sub-Saharan Africa, where four in 10 young women are married before the age of 18. This amounts to a staggering 40 per cent of girls marrying before age 18. According to the African Union's campaign to end child marriage in Africa, 15 out of the 20 countries with the highest rates of child marriages globally are Africa (African Union, 2013).<sup>13</sup> Adolescent and teenage girls are often forced into marriage arrangements by their parents and families. While some African countries have been able to make significant progress in reducing child marriage, progress on the entire continent has been slow. Figure 3 shows an overview of young women including adolescent girls who were married before the age of 18 in Zimbabwe, Uganda, Sierra Leone, Kenya, Ghana, Ethiopia, Egypt, and Cameroon classified by location. The chart indicates that the prevalence of child marriages is high in rural areas across all the countries and most prominent in Ethiopia.

11. African Child Policy Forum and Plan International (2019) Getting girls Equal: The African Report on the Girls and the Law.

12. Key informant, Sierra Leone, October 2020.

13. African Union (2013) Campaign to end child marriage in Africa: Call to Action [https://au.int/sites/default/files/pages/32905-file-campaign\\_to\\_end\\_child\\_marriage\\_in\\_africa\\_call\\_for\\_action\\_english.pdf](https://au.int/sites/default/files/pages/32905-file-campaign_to_end_child_marriage_in_africa_call_for_action_english.pdf)

**Figure 3: Percentage of young women married before 18 in the 18-22 age group by location in selected African countries**



Source: author's compilation derived from the MICS

Concerning trends in child marriage, Table 2 shows that except for Egypt and Zimbabwe, child marriage rates have declined in all the other countries. For example, in Sierra Leone, 31 per cent of young women aged 18-22 years married before 18 years compared to 49 per cent among older women aged 41-49 years. The highest rates of child marriage are observed in Ethiopia and Uganda, where more than 1 in 3 women (36 per cent) marry before age 18. In Zimbabwe, the proportion of women who married before their 18th birthday remained constant at about 26 per cent

regardless of age category. Women in rural areas are about more than twice likely to marry early compared to their urban counterparts. Higher child marriages in rural areas are explained by higher rates of school non-attendance for rural than for urban young women. To the extent that increased trade activities because of the AfCFTA do not affect school enrolments, child marriages would be expected to decline. It is mainly communities resident near border crossings—characterised by high school dropout rates—that could register an increase in child marriage rates.

**Table 2: Percentage of women with first marriage before 18 years by age group and location**

	All				Rural				Urban			
	18-22	23-30	31-40	41-49	18-22	23-30	31-40	41-49	18-22	23-30	31-40	41-49
Cameroon	28.1	31.4	33.7	37.2	41.4	44.9	43.6	41.8	17.3	22.2	26	33
Egypt	39.9	22.9	27.9	35	42.9	26.5	34.1	43.7	31.4	16.2	18.7	22.7
Ethiopia	38.6	49.1	57.1	60.3	48.8	59.2	63.3	66.7	20.3	30.5	42.9	46.7
Ghana	17.8	25.9	31.3	35.4	24.8	35.7	39.6	38.5	10.8	17.3	23.5	32.4
Kenya	25.3	34.1	31.7	34.8	27	39.4	34.2	37.1	21.9	25.6	26.5	29.4
Sierra Leone	31.8	45.8	48.5	48.6	44.4	54.3	52.4	51.1	19.4	33.8	41.6	44
Uganda	37.4	39.3	47.4	46.4	39.6	42.1	49.9	47.7	26.4	27.7	34.6	39.2
Zimbabwe	26.7	28	26.7	26.8	36.1	36.7	35.9	31.8	16.1	17.1	16.3	19.2
<b>Average</b>	<b>30.2</b>	<b>33.6</b>	<b>35.5</b>	<b>38.2</b>	<b>35</b>	<b>39.8</b>	<b>40.3</b>	<b>42.6</b>	<b>21.2</b>	<b>23.9</b>	<b>26.4</b>	<b>29.7</b>

Source: Author's calculations from the DHS surveys

In Southern Africa, Mozambique is one among the countries with the highest rates of child marriages in the world with at least 48 per cent of women aged between 20 and 24 years reporting that they were married before the age of 18.<sup>14</sup> While in Madagascar, 41 per cent of women are married before the age of 15 years.<sup>15</sup> Conflict experience is highlighted as one of the key drivers of child marriages in countries such as the DRC where a lot of girls get married before they are 15 in rural conflict areas than in peaceful urban regions.<sup>16</sup>

**Previous reports also show that Africa accounts for 25 per cent of the global population of girls who enter marriage before 18 years** and projections are that Africa's share could increase to 50 per cent by 2050 (African Union, 2018). Recent evidence shows that at least 11 African countries have child marriage rates exceeding 40 per cent (Africa Child Policy Forum and Oak Foundation, 2019). As

earlier noted, child marriages are associated with girl's school dropout and the low education attainment of women. Apart from violating a girl's rights, child marriages are also associated with numerous health challenges. Child marriages are associated with 52.4 per cent of girls having children before the age of 18; and children born by young mothers are more likely to die during infancy (Wodon et al., 2017). Furthermore, adolescent mothers suffer poor health outcomes due to the increased risk of intimate partner violence (Savadogo and Wodon, 2018).<sup>17</sup>

**Another significant impact of child marriage is single motherhood, and this is a regular occurrence in areas near border posts.** Increased cross border activities because of the AfCFTA could entice young girls into early sexual relationships with traders and transporters. Early sexual debut often leads to unwanted pregnancies.

14 UNICEF 2018

15 SADC SGBV Policy Scan. Safaids (2019)

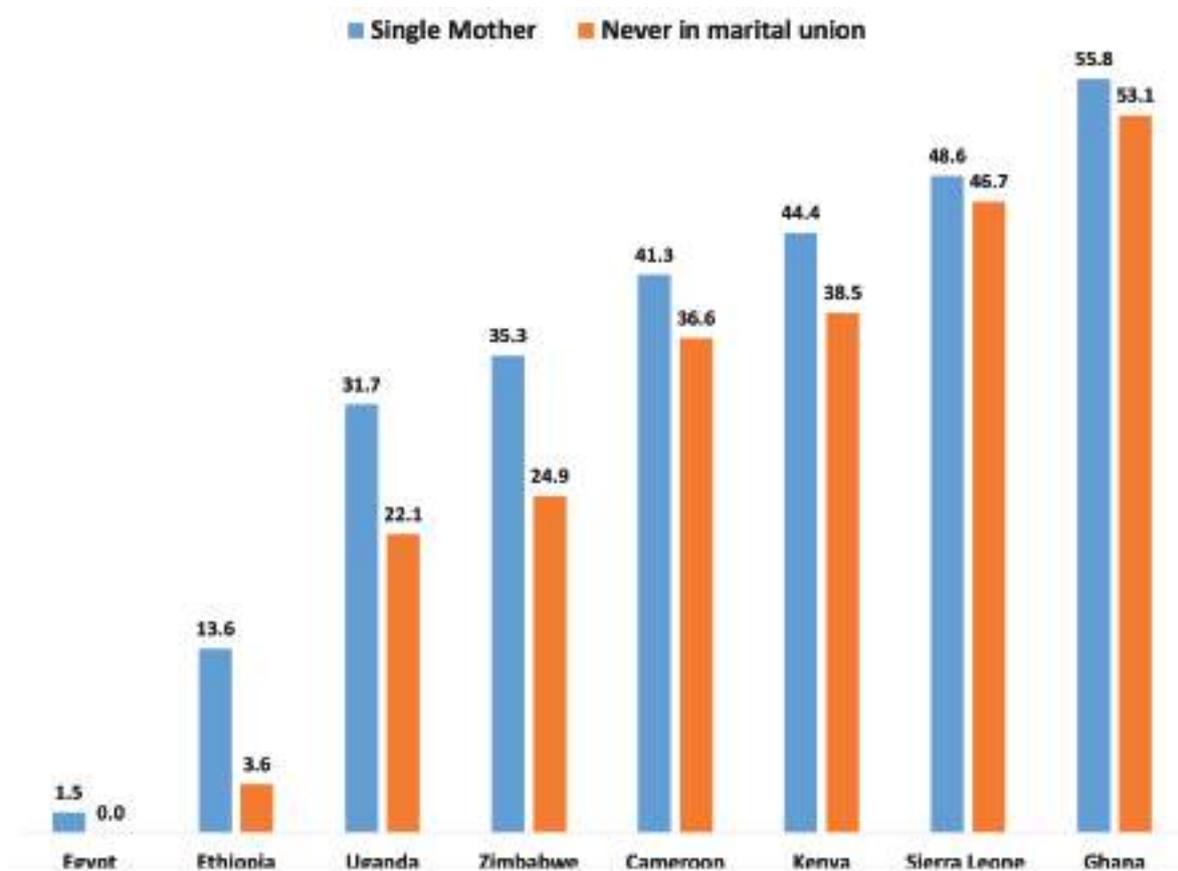
16 Ibid

17 Savadogo, A., and Q. Wodon (2018). To What Extent Could Ending Child Marriage Reduce Intimate Partner Violence in sub-Saharan Africa? Education Global Practice. Washington, DC: The World Bank.

A substantial proportion of young girls are getting pregnant prior to attaining the minimum age of marriage and many suffer human rights abuse such as dropping out of school and being exposed to domestic violence. Figure 4 shows for the case study countries, the extent of single motherhood—defined as women aged 15-19 years that begun child-bearing while either unmarried (i.e. never in a union), widowed, divorced and

separated. Except for Egypt and Ethiopia, all the other countries have large rates of single motherhood—ranging from 31.7 per cent in Uganda to 55.8 per cent in Ghana. Furthermore, most of the single motherhood status is attributed to the “never in marital union” category. The chart suggests that so many young girls end up pregnant and bearing children while still in their parents’ homes.

**Figure 2: Child labour and school attendance among children aged 7-17 years**



Source: Author’s calculations from the DHS surveys

**Beyond RECs, continental institutions have also addressed child marriages.** For example, the African Union launched a Campaign to End Child Marriage in Africa.<sup>18</sup> This campaign works at encouraging all member states to develop strategies to raise awareness of and address the harmful impact of child marriages. The African Region has ratified instruments which view child marriage as a violation against girls' human rights: Several African human rights instruments condemn child marriage and establish 18 years as the minimum age of marriage. These include (i) The African Charter on the Rights and Welfare of the Child (article 21); (ii) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Article 6); (iii) The African Youth Charter (Article 8); and (iv) The SADC Protocol on Gender and Development (Article 8). Furthermore, reduction of child marriages were also entrenched in the tenets of the Africa Agenda 2063.

**There are some noteworthy practices at the country level.** For example, countries like Botswana, Egypt and Gambia have legislation that specifies the minimum age of marriage as 18 years with no exemptions. Furthermore, in 2014, the government of Egypt developed a national strategy to prevent child marriage and promote young people's sexual and reproductive health and rights. Similarly, the government of Ethiopia developed a National Strategy on Elimination of Harmful Traditional Practices. In 2019, the federal government came up with a nationally costed roadmap to end child marriage and female genital mutilation (FGM) during 2020–2024. Earlier, in 2013, the government of Zambia launched a three-year national campaign to end child marriage. Zambia has also adopted constitutional prohibitions against marriages for girls under 18.<sup>19</sup> Zimbabwe and Tanzania are also a good example where courts have ruled against unions for children under 18 years of age.

## LIKELY IMPACT OF THE AFCFTA ON CHILD MARRIAGES IN THE AFRICAN REGION

Opening up of trade in the region might lead to a situation where adolescent girls start migrating in search of educational and livelihood opportunities in other countries. According to UNICEF, one out of every four migrants from Africa is a child (UNICEF, 2016).<sup>20</sup> According to a recent analysis of migration in the horn of Africa, it is postulated that teenage girls' experiences of poverty, exploitation, and violence shape their decisions to migrate despite

the risks they may face doing it (UNICEF Office of Research Innocenti, 2019).<sup>21</sup> Child marriages linked to migration necessitate complex relationships among authorities in the countries involved. If receiving countries have signed international commitments to uphold children's and women's rights, then they will be obliged to monitor and enforce appropriate legislation to protect these children within their borders, regardless of their place of origin.

19 UN Women and AU 2018 Ibid

20 UNICEF (2016) Uprooted: The growing crisis for refugee and migrant children [https://www.unicef.org/publications/files/Uprooted\\_growing\\_crisis\\_for\\_refugee\\_and\\_migrant\\_children.pdf](https://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf)

21 UNICEF Office of Research – Innocenti (2019). “No Mother Wants Her Child to Migrate”. Vulnerability of children on the move in the Horn of Africa. <https://www.unicef-irc.org/publications/pdf/Child-Migration-Horn-of-Africa-part-1.pdf>

## CHILD TRAFFICKING AND CSEC

**Existence of a protective legal and policy framework for the protection of other child rights.** Globally and at the Africa continental level, there is a rich and protective policy framework for the protection of children from sexual abuse and exploitation. Articles 33, 34, 35, 36 of the Convention on the Rights of the Child (CRC) provide for the protection of children from sexual abuse and exploitation. Specifically, Article 16 (1) of ACRWC provides for the protection of children from abuse, maltreatment, including sexual abuse. Furthermore, Article 27 requires states to protect children from all forms of sexual exploitation and sexual abuse. On the other hand, Article 13 (e) of the 2003 Maputo Protocol underscore the need to support women working in informal activities.<sup>22</sup> Despite the availability of the above legislative protections, girls in Africa are in a very precarious environment.

**Illegal activities performed as part of the cross-border trade, including smuggling, are likely to expose girls and young women to sexual abuse and other forms of abuse.**

The ACERWC study on children on the move in Africa noted that smuggling is one of the main causes of child movement in Africa. When children encounter barriers in accessing legal channels for movement, they resort to crossing borders with the assistance of smugglers who also smuggle goods for trade. This facilitates the movement of children from one country to another. Highlighting the potential risks for children to be abused under the care of smugglers, UNICEF noted:

*Smuggling is a lucrative trade, and many smugglers will manipulate, extort and take advantage of the gullibility and vulnerability of migrating children, often leaving them at the mercy of kidnappers.<sup>23</sup>*

The ACERWC report notes that in Zimbabwe children are assisted to cross borders to countries such as South Africa or Botswana by smugglers popularly known as “*Amalayitsha*”. On the other hand, in Zambia, several children are smuggled across the border by truck drivers. The same report notes that there are no gender variations among the children who move across borders. Nonetheless, girls and young women more likely to be exposed to sexual abuse by smugglers. As such, the expansion of trade activities across borders as part of implementing the AfCFTA has the potential to escalate the level of abuse faced by girls and young women through smuggling.

Globally children make up over a quarter of detected trafficking victims in the world. However, at least 64 per cent of these children are from SSA according to 2017 UNICEF Report (cited in O Bello et al., 2020). Between 2015 and 2017, more than 18.2 million children were on the move across Africa. Figure 5 shows the distribution of the children on the move in Africa across different sub-regions. Central Africa and the Great Lakes region account for the largest share of children on the move. East

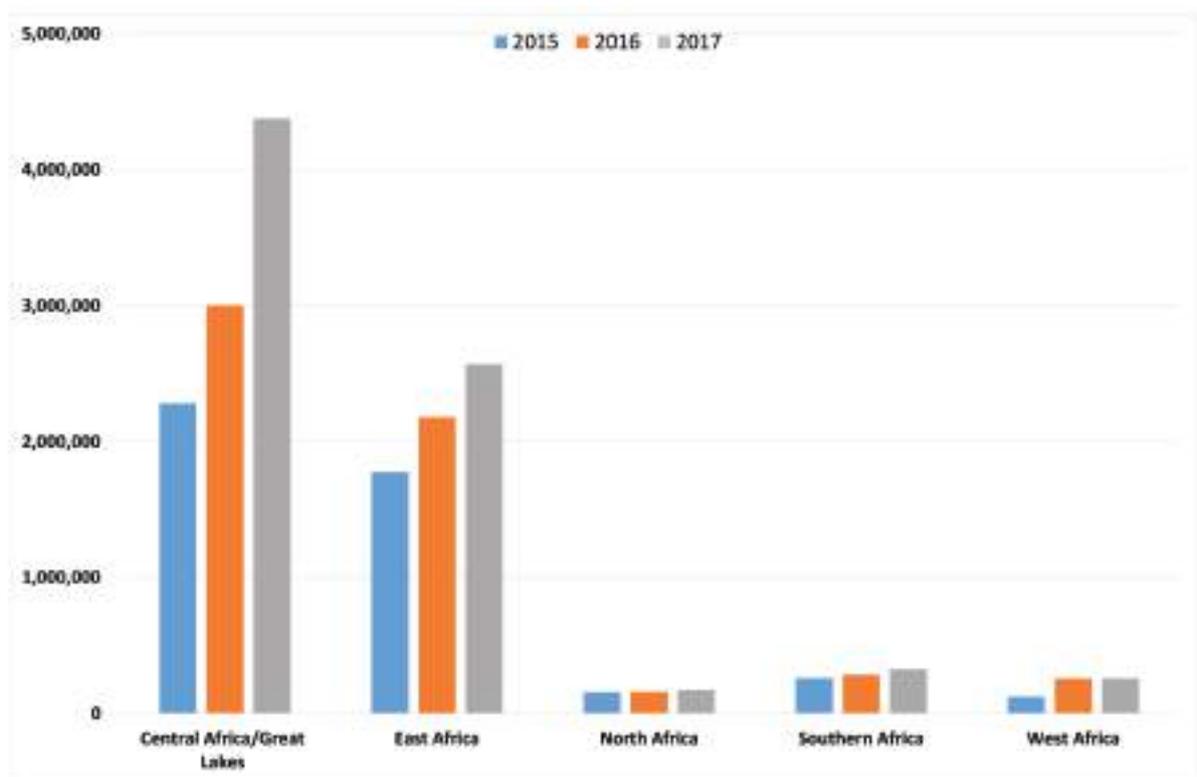
<sup>22</sup> African Union (2003) Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.

<sup>23</sup> Africa Committee of Experts on the Rights and Welfare of the Child (2018) Mapping Children on the Move within Africa. PP 50.

Africa follows Central Africa while North Africa, Southern Africa and West Africa have recorded a much lower share. These figures represent the statistics of children captured

through official channels; the true extent of child trafficking in Africa could in fact be much higher.

**Figure 5: Statistics of Children on the Move in Africa during 2015-2017**



Source: ACERWC (2018) Mapping Children on the Move within Africa

Furthermore, nearly equal numbers of males and female children were on the move across Africa during the three years (not shown in the chart). However, there were some variations per region, with the proportion of females on the move in Central Africa and Great Lakes as well as West Africa exceeding that of boys. In both Central Africa and the Great Lakes region (9.6 million) as well as West Africa (650,000), females accounted for 51 per cent of the children on the move in the two sub-regions.<sup>24</sup>

### Drivers of child trafficking in Africa

**Poverty:** is one of the major push factors of child trafficking. It is one of the main factors driving parents and guardians to allow children to engage in trade as a means of generating income for the household. Traffickers take advantage of the vulnerable situation of children and their parents. The desire for improved life situations by the parents, push them to hand over their children and relatives to traffickers.<sup>25</sup> In the Napak District of Northern Uganda, communities like the Lomatoit indicate that

<sup>24</sup> African Committee of Experts on the Rights and Welfare of the Child (2018) Mapping Children on the Move within Africa.

<sup>25</sup> Ibid

parents are tricked into giving away their children in exchange for some money. Some such children end up in the capital Kampala and are exploited through CSEC or across borders for other destinations including Kenya and Europe.<sup>26</sup>

In Southern Africa, countries like Zimbabwe, Mozambique, Lesotho and Zambia experience trafficking of young girls and boys for promised job opportunities in South Africa. They often end up in abusive situations either as child labourers or being

sexually exploited. In the Mano River Union countries of West Africa (i.e. Sierra Leone, Guinea, Liberia and Ivory Coast), the pursuit for better education in the city also pushes parents in rural areas to easily give away their children to relatives, friends and other people living in the cities. The expectation is that such children will acquire a better education in the cities. However, these children may end up as street traders, domestic workers or engaged in other forms of exploitative labour or CSEC.

### Box 2: Parental involvement in child trafficking in Ghana

In Ghana, several communities within the country serve as both sources and destinations of child trafficking. Children are trafficked into child labour mainly in the fishing industry involving activities like fishing, processing and selling. A man from Kwamekrom sold his four sons for 500 cedes (US\$ 111) to traffickers working on Lake Volta. In Ghana, children are trafficked by people that are familiar to them, starting from their parents to close relatives. A 2013 ILO analytical report of Ghana child trafficking showed that 42 % of trafficked children were sourced from their parents. Ghana case analysis also indicated that some children (approximately 17 per cent) offered themselves up for trafficking with the expectation of better opportunities. Concerning causal factors for trafficking, In Ghana, poverty stood as a significant driver. Cultural and social norms, such as forced marriages also pushed young girls into the arms of traffickers.

Source: Yadoglah (2018).<sup>27</sup>

26 Girls Advocacy Alliance, Plan International and terres des hommes- Primson Management services (2018)

27 Yadoglah, J. A (2018). Factors Influencing Child Trafficking: An Analysis of cases reported in Ghana.

**Lack of awareness:** In addition to poverty, families usually lack an understanding of the consequences of giving away their children to live with other people in the city to acquire a better education. Previous research on the Gbalamuya and Pamelap communities' at the Guinea-Sierra Leone border shows that raising community awareness about child trafficking—especially how children taken from rural areas are exploited and destroyed in the cities—can change this situation. Specifically, AMNet (2018) shows that attitudes towards the practice of informal fosterage have altered following the awareness-raising sessions organised by DCI-Sierra Leone and DCI-Guinea. The research by AMNet showed that members of the Gbalamuya community also stated that school enrolment in the community increased because parents no longer send their children to Freetown for education or work. Similarly, in *Pamelap*, border law enforcement agents said that parents were now more involved in the upbringing of their children, as they were

now aware of their children's vulnerability to trafficking and other harmful practices.

## Cultural and Social Norms and Practices

Some girls are forced to move away from their homes on their own, running away from cultural practices such as forced marriages or female genital mutilation. Of the nearly 41 states globally with child marriages rates at least 30 per cent or above, 30 are in Africa.<sup>28</sup> Peer pressure can also push young girls to offer themselves to traffickers who promise to get them to a lucrative destination for job opportunities. In addition, discriminatory gender norms and values that make girls and young women less important compared to boys and young men increase the propensity of girls and young women to move out of their communities in search of greener pastures. They may end up in the hands of traffickers (Temin et al., 2013).<sup>29</sup>

### Box 3: Young girls in West Africa are trafficked mainly for sexual abuse

On a bus in Cotonou, four Nigerian girls aged 15-16, sit closely together as they are about to embark on the last part of their journey to Mali, where they are told their new husbands, whom they have never met, await them. They started at home in Eastern Nigeria, where their parents had agreed that they are commissioned to be wives of Nigerian men in Mali. Asked if the parents knew, the transporter responded that he had negotiated with the parents who accepted down payment for dowries which would help them start some small business. The same news agency reported that at the end of April 2019, Interpol had rescued 1216 trafficked girls and 157 were children from Benin, Burkina Faso, Niger, Nigeria, and Togo. Some of the trafficked victims were working at sex workers in Benin and Nigeria.

Source: Inter Press services (2019) West Africa, Fine Line between Cultural Norms and Child Trafficking.

<sup>28</sup> Africa Committee of Experts on the Rights and Welfare of the Child (2018).

<sup>29</sup> Temin, M., Montgomery, M., Engebretsen, S. and Barker, K. (2013) 'Girls on the Move: Adolescent Girls & Migration in the Developing World. A GIRLS COUNT Report'. New York: Population Council. <http://bit.ly/1pJfec0>

## Weak border controls

Weak border controls in some regions also offers traffickers the opportunity to cross with unregistered children who have no legal documents to cross borders. In West Africa, children are smuggled by traffickers as cargo. In Sothern Africa, some bus drivers are reported to bribe border authorities to cross with children who do not have adequate documentation. It is worth noting is that the requirements for traders moving with children across borders are not harmonized, between countries or across RECs. For instance, no child-identification is required for traders

perceived to be travelling to areas near the border. At the Kenya-Uganda border (Busia), child identification at the border is not a requirement; identification is only needed if the parent is moving beyond the 10km radius as gazetted by the East African Community (EAC). In other border crossings, only the parent's identification is required, exposing children to the risk of trafficking. Other State parties, with support of CSOs, have developed localized measures to address child trafficking using border communities, as illustrated in Box 4.

### Box 4: Addressing cross border child trafficking in Mano River Union countries

The introduction of Standard Operating Procedures in 2016 by Defence for Children International (DCI) at the borders signed between Sierra Leone and Guinea and Sierra Leone and Liberia, ensures that there are now increased checks for child trafficking and collaboration between security officials of both countries at the borders in mitigating cross border child trafficking. However, because it is impossible to deploy security personnel at all border crossing points between African countries, many travellers, particularly those with incomplete travel documents or are travelling with victims of trafficking take advantage of the porous borders. In this respect, the involvement of the communities in controlling cross border movement of people is vital. One of the results of the cross-border child trafficking project by DCI is that border communities check on the movement of strangers travelling with children. If trafficking is suspected, communities report such cases of child trafficking to the police.

The law enforcement actors interviewed during the evaluation study said that the communities—especially the local Chiefs—are referring more cases to them since 2016. Immigration officials in Jendema highlighted that communities have also started reporting cases of children on the move in an attempt to protect them.<sup>30</sup> NGOs such as AMNet and GOAL (Sierra Leone), African Movement of Working Children and Youth (AMWCY) and Unité Conjointe Transfrontière (Guinea), and DCI-L (Liberia), also said that the respective border communities started referring cases of child trafficking to them.

Source: Evaluation (2018)

30 Immigration, Source 40, note 2, Jendema (30/11/18)

## The potential impacts of AfCFTA on child trafficking in Africa

The above analysis has demonstrated that trade routes and road transporters within and across State Parties are the primary vehicles for child traffickers. We note the weak border control systems and the monitoring of road transports—which can potentially fuel child trafficking. Children are trafficked often by people known to their parents and relatives. Increased trade and movement of people as the borders are opened further for business, is likely also to increase child trafficking. To this end, as the countries develop their national strategies for operationalisation of the new trade agreement, it is vital that the drivers of child trafficking and the knowledge gained on the key players, are used to put in place measures that can contribute to the reductions in child trafficking.

The opening of borders may lead to the illegal smuggling of children from Zimbabwe to neighbouring countries such as South Africa, Botswana, Zambia, or even other countries outside Africa. In Zimbabwe, specifically, persons are engaged in the illegal business of transporting children who do not have passports to their parents in other countries. Despite there being many instances of child smuggling

and trafficking across Zimbabwe's porous borders, these cases remain unknown and unreported because of the nature of the crime. International Organization for Migration (IOM) reported that Zimbabwe experienced high rates of child trafficking primarily because in many cases, victims were afraid to speak out. According to the IOM, child smuggling is most prevalent on the borders of South Africa and Botswana because documents can be forged, and people bribed to allow entry without proper documentation.

The easily porous borders mean that the trafficking of children is also prevalent. Child trafficking cases are difficult to trace because minors are not responsible for their actions, and there is a thin line between smuggling and trafficking. Trafficking is not always clear as many trafficked people may be recorded as migrants in the country of destination. Opening up of borders may lead to an increase in commercial sexual exploitation of adolescents particularly girls and an increase in child marriages as young girls will be forced to migrate in search of greener pastures in other countries such as South Africa.

## 5. WOMEN INFORMAL CROSS BORDER TRADERS AND THE AFCFTA

### IMPORTANCE OF INFORMAL CROSS BORDER TRADE

#### Women's involvement in cross border trade on the African continent is substantial.

According to the 2018 EAC Gender Policy, women account for 70 per cent of informal cross border traders. One of the reasons for the vast number of women traders is their significant involvement in the trade of agricultural products. Several reasons explain women's dominance of agricultural trade on the continent. First, agricultural produce is not taxable in several African countries. In the same way, women traders have limited capital and it is much easier to trade in non-taxable goods. Second, agricultural produce originates from within the region and can easily be categorized within the US\$ 2,000 threshold for the simplified trade regime. Third, agricultural produce is easily traceable to acquire the required certificate of origin to clear customs, compared to manufactured goods. Also, agriculture is seasonal and seasonal markets allow women to balance their domestic and income-earning roles. However, the dominance of women in cross border trade is primarily in numbers; the few men involved have more capital than the numerous women ICBTs due to male traders ease of accessing loans from banks (Njiwa 2012<sup>31</sup>; Desai 2009<sup>32</sup>). Overall, by women actively engaging in agricultural produce across borders, they ensure regional food security.

#### Informal cross border trade is critical to Africa.

In terms of magnitude, it accounts for a substantial proportion of total exports in several African countries. For example, based on countries that operate the Automated System for Customs Data (ASYCUDA) and implement the STR, informal cross border trade is substantial. In Uganda, ICBT was estimated to be between 15-30 per cent of official exports in 2018 (Uganda Bureau of Statistics, 2020)<sup>33</sup>. Similarly, informal cross border trade accounts for at least 30 per cent of the intra-Africa trade among SADC countries (Nshimbi et al., 2017). Whereas informal economic activities account for 42 per cent of Africa's GDP, they nonetheless account for 56 % of the employment (Schneider and Enste, 2003). Women depend more on informal employment than men—in Africa with at least 90 per cent of women employed informally compared to 83 per cent of men (ILO, 2018).<sup>34</sup> The rates for female employment in the informal sector are high for all sub-regions in Africa except for Southern Africa and to a limited extent North Africa.<sup>35</sup>

Before the establishment of RECs in the late 1990s and more recently the AfCFTA in 2018, informal cross border trade was the primary engine driving regional integration. Cross border trade also supports the livelihoods of a large population. According

31 Njiwa (2012). Informal cross-border trade: Challenges and opportunities: A case of COMESA and its STR implementing borders.

32 Desai M. 2009. Women cross-border traders in Africa: Rethinking global trade. *Development* 52(3):377-386.

33 Uganda Bureau of Statistics (2020) The Informal Cross Border Trade Survey Report 2018 (Kampala: UBoS).

34 International Labour Organization (2018) Women and men in the informal economy: A statistical picture (Geneva: International Labour Office).

35 In Southern Africa, 42.4 per cent of women are employed in the informal sector compared to 62.2 per cent in North Africa and at least 94 per cent in both East and West Africa (ILO, 2018).

to the World Bank (2020), at least 40,000 persons daily cross the Rwanda-DRC border of Petite-Barriere in Goma. The proliferation of ICBT is largely attributable to the relatively small start-up capital required and proximity to the market (UNCTAD, 2018). Finally, in an environment characterised with a population bulge among the youth, albeit with limited formal employment opportunities, ICBT offers an avenue for both employment and incomes for survival. According to the World Bank (2014),

because of the current demographic shifts in Africa characterised by a youth bulge, many Africans are projected to stay in the informal sector for their working lives.<sup>36</sup> In particular, about 50 per cent of the 125 million new jobs projected in SSA between 2010 and 2020 will be informal or based on household enterprises. For young women, the attraction for informal work is the potential flexibility, i.e. the opportunity to combine informal work with child care for those with children or dependents.

### Box 5: Informal trade as a human right

Beyond employment and income generation, participation in Africa's informal trade is recognised as a human right issue in various protocols. For instance, Article 13 section (e) on Economic and social welfare rights of the 2003 Protocol to the African Charter on human and people rights on the rights of women in Africa calls on states to *“create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector”*. Similarly, SADC's gender policy recognises the informal sector and commits member states to *“enhance economic empowerment initiatives to ensure that all women and men benefit from increased economic opportunities in trade, formal and informal employment, and business; furthermore, Member States should integrate women's unpaid work into national accounts and budgeting processes.”* Concerning cross border trade, SADC gender policy aims to *“Enhance and promote the participation of women in small, medium and large enterprise development and cross border trade”*.

36 World Bank (2014) Youth Employment in Sub-Saharan Africa.

## CHALLENGES WOMEN FACE IN CROSS BORDER TRADE

**One of the challenges women ICBT face is the absence of suitable enabling environment to facilitate their movements at border crossings.** This is partly due to the negative perception that they are also engaged in smuggling. As such, a combination of either policies or administrative and operative mechanisms may make women feel uncomfortable to use the official border crossings and opt for un-official or un-gazetted crossing (EASSI, 2012).<sup>37</sup> Smuggling is associated with insufficient information and unsuitable policy regimes for women to appreciate and realise the benefits of using official channels to trade. The EAC, for example, recognises the role of women, and this recognition is enshrined within the customs union where women are identified as legitimate traders and not smugglers. The recognition has raised the bar both in terms of trade as well as formalisation. Intra-regional trade has significantly increased in part due to the appreciation of women to formalise. One way to change the enabling environment is to ensure that all the persons (immigration, customs, security, agents, etc.) working at the border crossing are registered and have proper identification or uniforms.

**Border procedures present an incredibly significant challenge to women traders.** The requirements for customs clearance can be cumbersome, time-consuming, and prohibitive (UNCTAD, 2019). Before STR, border procedures were a long process. Whether you were carrying 5 kilograms or handling 5 tonnes of agricultural produce, you were subjected to the same lengthy procedures for customs clearing. As an alternative, unsuspecting women were

lured by crooks to use illegal crossings. Illicit routes are considered more viable given the trading environment in which some of the places in designated markets close beyond regular hours. The introduction of the STR in the COMESA and EAC sub-region shortened these processes. The regime consists of four instruments—a simplified customs document, a simplified certificate of origin, a common list of products and a threshold for the value of the consignment. The STR has considerably reduced the time taken by cross border traders to less than 30 minutes. The STR has also reduced the cost of trading across borders since customs officials immediately recognise submitted documents with limited procedures and hurdles. A study conducted by Trade Mark East Africa (TMEA) in 2016 revealed that the average time spent under the STR reduced by as much as 50 per cent.<sup>38</sup> However, border trade issues are very fluid with frequently changing regulations and policies as well as new entrants. An outstanding challenge is that not all COMESA countries currently use the STR framework.

It is also important to note that women may be affected differently by the border environment depending on experience. New participants may struggle to complete the certificate of origin and would ordinarily take a much longer duration. Also, women who frequently cross the border to trade and are accustomed to security officials do not face significant immigration and customs challenges compared to new entrants. Recent entrants depend on the support of their more experienced counterparts, but this may introduce another avenue for exploitation.

37 Eastern African Sub-regional Support Initiative for the Advancement of Women (EASSI) (2012) "Action Research on Women Informal Cross Border Traders in the EAC Region"

38 Oxford Policy Management et al., (2018) TMEA evaluation Strategic Objective 1 [http://iati.dfid.gov.uk/iati\\_documents/53355421.pdf](http://iati.dfid.gov.uk/iati_documents/53355421.pdf)

**Besides border procedures, women traders are also affected by unfriendly border infrastructure (UNCTAD, 2019).** Some border crossings have no sanitation and health facilities that can be used by the travelling public. In cases where public restrooms are available, there are no separate washrooms/toilet stances for women. As such, men and women go the same washrooms next to each other which is also not safe for young women and girls. Furthermore, border crossings have no day-care centres. A significant number of women who engage in cross border trade are mothers and sometimes undertake their trade activities while carrying children. Many border crossings on the African continent do not have adequate places for breastfeeding and changing diapers. There is also a lack of public and secure storage space to keep goods as well as access to formal banking services. In the event of trafficking incidents, the borders also lack temporary care facility for rescued victims.

**Due to weak trade facilitation which makes formal systems lengthy and costly the use of un-official cross border routes persists.** Lack of information or ignorance predisposes women to use illegal ways to trade. Some women are unaware of the available trading framework that can support them. Many rely on families and friends for information which may be incomplete, untrue, or misconstrued. The scarcity of appropriate information has played a significant role in preventing women from optimising trade opportunities. At the same time, the use of ungazetted border crossings costs resources due to the payment of bribes and facilitation of a chain of personnel including security and go-betweens. Un-official routes can lead to confiscation of goods real or purported (if using an agent or intermediary).

**Women face sexual harassment from the multitude of men that operate in the border area** ranging from customs and security officials, transporters, and money changers. Faced with such a hostile environment, some women fear to engage these exploiters and sometimes choose to use unofficial routes when faced with threats of exploitation. On the other hand, unofficial routes not only lack avenues for redress but also carry higher risks of exploitation and as such are extremely dangerous for the women. For example, at the borders between Sierra Leone and Guinea, the DCI has documented cases of attempted and actual rape as well as murder of passengers including women using “bush roads” patronized by commercial motor bikes or Okadas.

It is worth noting that some of the current policies recognise the challenge of sexual harassment of women traders. For example, the EAC gender policy notes that concerning migration, women and girls are affected by *“human trafficking, intimidation and extortion at borders and sexual harassment”*. Similarly, the SADC gender policy aims to *“Eliminate discriminatory practices towards female workers in formal and informal employment in relation to international and national labour markets and ensure equitable application of health and safety codes and regulations, rights and sexual harassment codes”*. Also, the SADC gender policy calls for facilitating women’s access to safe and affordable public infrastructure. Establishing a Charter for cross-Border Trade in Goods and Services has been one of the ways countries have addressed sexual harassment of women traders (Brenton et. al, 2014).<sup>39</sup>

**Beyond addressing sexual harassment, women cooperatives are critical in**

39 Brenton, P., N. Dihel, M. Hoppe, and C. Soprano (2014) “Improving Behavior at Borders to Promote Trade Formalization: The Charter for Cross-Border Traders” World Bank Trade Policy Note No 41.

**providing information on border procedures, especially taxation.** Nonetheless, beyond providing information regarding border activities and shelters, cooperatives have also supported women to network as well as make attempts to formalise as well as cut out intermediaries in their activities. For example, women cooperatives from the opposite side of the border can support the process of clearing of goods and transportation of goods inland. Through networking, a woman operating on the Rwanda-Uganda border at Katuna can engage in trade at another, e.g. Busia (Kenya-Uganda) without actual physical movement. Furthermore, cooperatives are also able to engage with other members of the border community, e.g. with customs officials through participation in joint border committees. Sometimes, when new procedures are due for implementation customs officials seek the views of trade-cooperatives. For some border crossings with established OSBP infrastructure, women cooperatives have a desk/office—where members can easily access information. These OSBPs have been instrumental in providing trade information and policies concerning RECs. Finally, trade-cooperatives can serve as a source of finance as some offer loans to members at rates much lower than those offered by money lenders. Furthermore, the leadership of women’s cooperatives have in some instances served as guarantors for member’s loan applications in microfinance institutions.

**Brokers or intermediaries are part of the group at the helm of exploiting women cross-border traders.** Brokers who are traditionally used to clear customs

procedures, charge a commission for their services. If the trader involved is not fully aware of all taxes to be paid, the brokers may inflate both the commission and any applicable taxes ultimately affecting earnings. The exploitation can be by way of a request for a bribe to ensure that the custom official stamps to allow the goods passage. Women cross border traders face a challenge of balancing work and home responsibilities. Most young women do not have enough times for their families. Those who trade in agricultural products must leave home exceedingly early e.g. at 5 am to secure fresh produce in the markets. Some young women must meet the additional costs of hiring domestic help given the substantial duration away from home. Initiatives to support women informal traders

There are several regional initiatives to support cross border trade in general, and women traders. These include Trade Mark East Africa (TMEA) focusing on Burundi, Kenya, Rwanda, South Sudan, Tanzania, and Uganda. Other initiatives include the Great Lakes Trade Facilitation Project (GLTFP)—a US\$ 79 million project targeting vulnerable groups in the border regions of Rwanda, Burundi, and DRC. Overall, these regional initiatives aim to reduce costs faced by traders, especially small scale, and women traders. The primary interventions of the project are in following areas: (i) Improved infrastructure, e.g. rest areas; (ii) establishing a charter of minimum standards; (iii) rollout of simplified border procedures; and (iv) the harmonisation of borders through OSBPs. In Box 6, we describe how TMEA is specifically addressing some of the constraints women face.

## Box 6: Trade Mark East Africa addressing constraints faced by women traders

Trade Mark East Africa (TMEA) aims to increase trade by reducing barriers to trade and boosting business competitiveness. To address the constraints faced by women, TMEA is implementing three main areas of interventions. First, it is building institutions—women traders are running small, fragmented enterprises operating below the radar and may not be easily recognised. Building institutions therefore entails building some form of formality around these women. Key activities include building women cross border cooperatives across the EAC region and supporting those that already existed under COMESA. TMEA supports cooperative's participation in the formal border framework and also champions women's voices at the national level through the different forums

Second, TMEA supports the transitioning of women cross border traders towards a formal structure of trade. Support for formalisation is mainly through capacity building, knowledge, information and building networks highlighting the requirements, rules and regulations affecting trade, i.e. the dos and don'ts. It also builds networks by supporting the connection with other traders undertaking similar business. Additionally, it supports connection to buyers—through cooperatives which can access the market or through enabling aggregation as well as compliance with the required standards.

Third, the initiative seeks to ensure that the border infrastructure is responsive to the needs of women ICBTs. This is achieved through both direct investments of such infrastructure as well as through advocacy for the required infrastructure. These include crèches, resource centres for providing information, separate toilet facilities for women and men at the border crossing as well as resting places that can be used for nursing a baby.

Overall TMEA has a considerable infrastructure component in its programming. Through the OSBP, the provision of such infrastructure has been more straightforward—either through direct delivery or advocating for specific design considerations. The following examples describe the nature of infrastructure established and how it supports women traders at the various border crossings in East Africa.

- i. At the Rwanda-DRC border crossing at Rubavu Petite Barriere, TMEA provided a crèche (has a facility to offer privacy for breastfeeding, sanitation facilities etc.).
- ii. At the Kenya-Tanzania border crossing at Taveta, a shade for rest was provided, and this facility can also serve as a place where women can temporarily hold their consignments.
- iii. In border areas where TMEA has none of their own infrastructure, e.g. at Namanga (Kenya-Tanzania border) which was built by JICA, TMEA hired a resource centre—a space close to the border crossing where women can go to get information or can report in case of arbitration.
- iv. Aggregation centres these are facilities recognised by customs where women can store goods for up to 30 days free of charge.

Source: Interview with Director Gender-TMEA, August 2020

Beyond the regional trade projects, there are several small-scale CSOs supporting women cross border traders. An example is EASSI which offers training to women in cooperatives to empower them to conduct trade using the official channels. This NGO

has also developed an app SautiAfrica which is a mobile-based trade and market information platform that enables women to access trade information. In other instances, the NGOs has seconded a desk officer to run the women's cooperative office at the OSBP.

## POTENTIAL IMPACTS OF AFCFTA ON WOMEN INFORMAL CROSS BORDER TRADE

There is minimal reference to girls, young women, or ICBT issues in the AfCFTA agreement. In fact, only Article 27 regarding technical assistance, capacity building and cooperation explicitly states the need for State Parties to implement measures to support *“improving the export capacity of both formal and informal service suppliers, with particular attention to micro, small and medium-sized enterprises; women and youth service suppliers”*. The agreement nonetheless provides avenues through which issues of ICBT can be advanced. For example, a significant challenge faced by women ICBT are the variations in customs procedures. The AfCFTA provides for the creation of a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit to ensure that processes are simplified, and customs procedures are standardised. The same sub-committee is envisaged to address the infrastructure gaps at border crossings.

**Cross border trade is expected to expand with the implementation of the AfCFTA due to overall declines in trade barriers.** The reduction of NTBs could also attract more women to join cross border trade. Beyond expanded income opportunities, the widening of intra-African trade and increased participation of women in cross-border trade could spark an increase in

cases of GBV owing to the changing or challenging of gender roles. Violence arises in marital relationships where women do not have the freedom to choose the areas in which they work. At the same time, beyond cross-border trade, the AfCFTA will lead to more foreign direct investment and the setting up of factories that will automatically demand labour. Nonetheless, most African countries do not enforce minimum wage legislations on account of pervasive and persistent unemployment problems. Without minimum wages, women and girls remain vulnerable to labour exploitation, as they presently receive lower wages for the same work compared to their male counterparts.

**Despite the availability of various policies by the RECs, several of these are not harmonised, and this could affect the implementation of the AfCFTA.** For example, the policy on the STR is not harmonised on thresholds. Despite DRC being a member of COMESA and a signatory to the STR, the minimum threshold considered in DRC is US\$ 500 while it is US\$ 2,000 for the rest of COMESA. Such State Party attempts to increase potential customs revenues by taxing lower value goods goes against the spirit of regional integration, and the same situation could also arise under the AfCFTA. Any taxation of low-value goods will be detrimental to women's participation

in cross border trade. Besides the varying thresholds for the STR, some countries levy vehicle charges for regional vehicles travelling inland. For example, Rwanda charges a flat fee of US\$ 76 per vehicle, whereas other countries charge road user fees dependent on the mileage. When levies are flat regardless of the goods transported, this disproportionately affects women who trade in low value but bulk agricultural produce.<sup>40</sup> Other examples of differences in implementation of agreed protocols are exhibited in value added tax (VAT) imposition—which is not uniform across neighbouring State Parties.<sup>41</sup> Even within the RECs, some goods are permissible while in other countries the same goods are banned.<sup>42</sup> The continuation of such and

other practices during the implementation of the AfCFTA could disproportionately affect women.

The requirements for movements with children are also not harmonised. For traders perceived to be travelling to areas near the border, no child identification is required. At the Busia Kenya-Uganda border, child identification at the border is not a requirement and is only necessary if the parent is moving beyond the 10km radius gazetted by the EAC. In other jurisdictions, only the parent's identification is required, and this exposes the children to the risk of trafficking. In Box 7, we describe an experience of a trader witnessing child trafficking.

### Box 7: Zimbabwe female cross border trader shares her experience in witnessing child trafficking

In 2018 we took our members of the SMEs to participate in the display of our products in Eswatini. All the members were seated yet the bus driver would not start the journey. He kept on saying that he was waiting for one passenger. We got delayed for 5 hours. What surprised us is that we had hired this vehicle to take us to Eswatini. We left only after this lady with a child arrived and joined us in the vehicle. We observed that this child did not belong to this woman. At the roadblocks, police officers did not identify the child as the women tried to hide her. One of us asked if the child belonged to her, and she responded that she was transporting the child to South Africa to her parents as the child did not have a passport. When we reached a garage in Musina, a strange person approached and asked her “What have you brought us”, she showed the person the child and they alighted at that garage.

Source: Interview with female cross border trader, August 2020

40 Also attempts to switch vehicles at the borders are costly—due to loading costs and these affect the margins received by women cross-border traders.

41 For example, for taxable goods, Rwanda charges VAT on cross-border goods while Uganda does not levy similar charges.

42 Within the EAC, for example, polyethylene bags are prohibited in some countries, e.g. Rwanda, Tanzania, Burundi and Uganda but not in Kenya.

## COVID-19 PANDEMIC AND WOMEN INFORMAL CROSS BORDER TRADE

Although African governments through RECs have increasingly recognised the need to support women cross border traders, more current practices during the COVID-19 crisis point to continued attention and preference for large scale trade. The containment measures adopted during the COVID-19 pandemic partly demonstrate this issue—Governments banned the movement of persons but allowed trucks to continue crossing borders. Only women who are organised into groups or have significant capital could hire trucks.<sup>43</sup> Several women lost perishable products like fish to the unaffordability of refrigerated trucks that were permitted to cross borders. With the envisaged expansion of trade under AfCFTA, this kind of prioritisation of large-scale players could continue. One of the general objectives of the AfCFTA to *“promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties”*. To realise this, there is a need to ensure that the policies adopted are fair and ensure gender equality.

**African countries adopted different measures to deal with COVID-19 with varying effects on women.** Principal among these was the closure of international

borders but with some restricted movements of specific cargo. However, not all countries adopted similar measures. Some, e.g. Tanzania went against the COVID-19 regulatory tide and did not implement any lockdown measures. Women who engaged in cross-border trade at the Tanzania-Uganda (Mutukula) border faced stigma—due to the need to remain in an isolation centre for 14 days upon return from Tanzania.

**The Coronavirus pandemic—which led to the closure of official border crossings prompted an increase in the use of illegal routes resulting in increased sexual harassment of women.** Some women have been raped, and most sexual assault cases go unreported since they are linked to unofficial channels. Beyond rape, women have faced other hazards while using unofficial routes. Several borders are defined by water bodies, e.g. rivers and crossing rivers during the rainy season comes with the potential risk of losing one’s life. The restrictions of movements greatly affected trade since at many border crossings, the markets are uneven. A significant part of the buying public is typically on the more affluent side of the border, closure of the borders thereby leaves women with no alternative market or buyers.

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43 Small scale traders on foot or using motorcycles were not allowed to trade, whereas women dominate small scale traders.



## 6. CASE STUDIES

### 6.1 ETHIOPIA CASE STUDY

#### Irregular migration and commercial sexual exploitation of children

A key cross border challenge affecting Ethiopia is the CSEC. Although a large number of Ethiopians migrate—especially to the Middle East—many do so irregularly using third party countries, notably Yemen, Somalia, and Kenya. Some of the migrants are children who end up in CSEC. Due to high levels of poverty—especially in rural areas—children are encouraged to migrate to support families. Aside from poverty, CSEC is exacerbated by the lack of birth registration—only 3 per cent of Ethiopian children are registered compared to an average of 56 per cent in SSA (Central Statistical Agency and ICF, 2016).<sup>44</sup> Children end up being exploited en-route to their destination and while at the destination. Over time many children and young women have been rescued from the Middle East. According to the State Department’s 2020 Trafficking in Persons report for Ethiopia, in 2019, at least 13,107 female potential victims of transnational trafficking were identified. Increased trade activities and the freedom of movement under the AfCFTA agreement could increase migration and ultimately the risks of trafficking.

On the other hand, Ethiopia has some of the most stringent laws against both child and human trafficking. Through the

Proclamation 760/2012 on registration of vital events and national identity card, all Ethiopian children are supposed to be registered. On the other hand, the 2015 anti-trafficking proclamation, No.909/2015, criminalized sex trafficking and labour trafficking, and prescribed penalties of **“25 years’ to life imprisonment and a fine of 200,000 to 500,000 Ethiopian birr (US\$ 6,290 to US \$15,720) for cases involving an adult female victim or a child victim”**. More recently, in February 2020, a new Proclamation 1178/2020 was approved to address smuggling of persons. Furthermore, the Criminal code outlaws both child prostitution and any sexual activities with minors. Hence from a legal standpoint, Ethiopia has the rules that should address potential trafficking under the AfCFTA; however, the limited enforcement of the available legal provisions could continue to expose children to abuse.

It is also worth noting that unlike other countries, a substantial proportion of Ethiopia’s migrants move to other African countries. Figure 6, which shows the 15 top destinations for Ethiopian migrants in 2019, shows that at least 18.1 per cent of the migrants end up in other African countries.<sup>45</sup> The four states of Kenya, Sudan, South

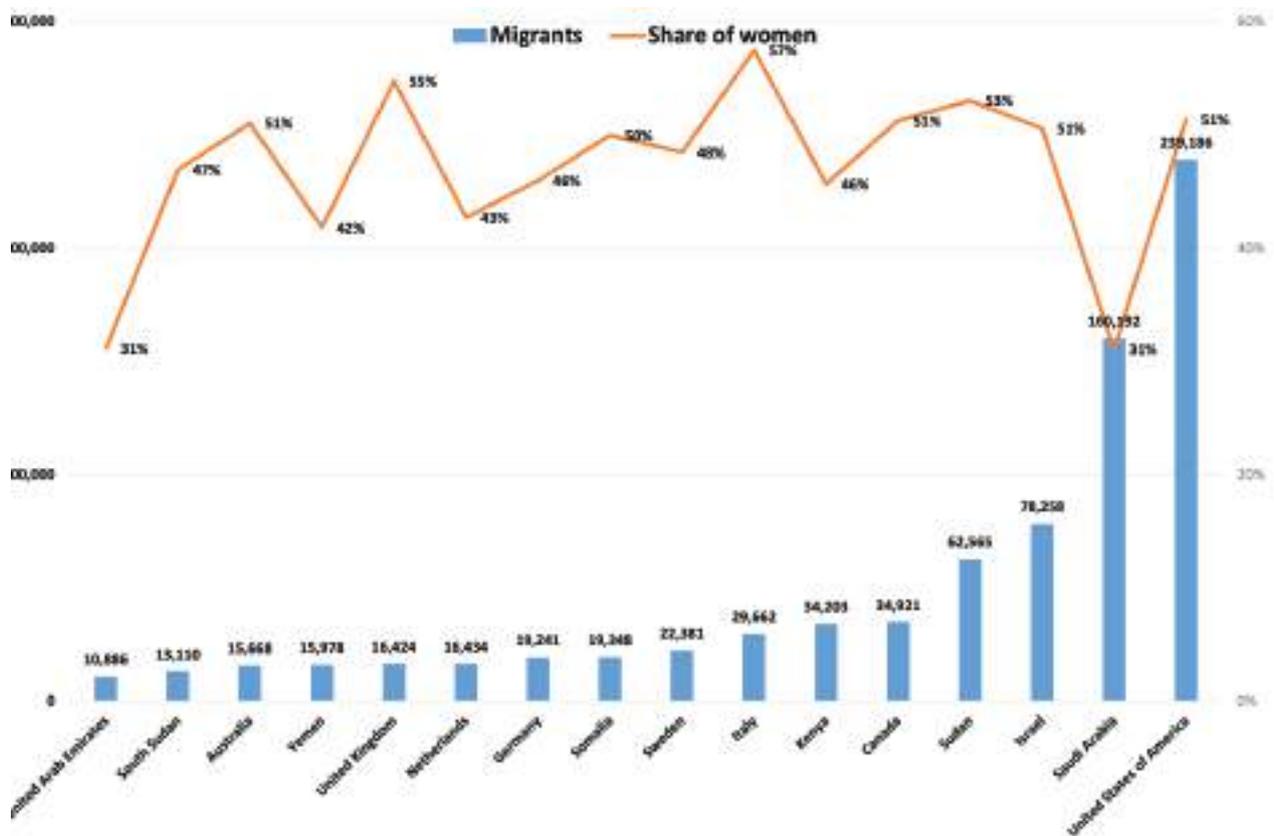
44 Based on the 2016 Ethiopia Demographic and Health Survey, most of the children registered are in urban areas (11.5%). Furthermore, registered children are mainly in Addis Ababa (24.7%) and Dire Dawa (18.5%) regions. Central Statistical Agency (CSA) [Ethiopia] and ICF (2016). Ethiopia Demographic and Health Survey 2016. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF.

45 Figure 6 shows that the USA is the leading destination with at least 27.4 per cent of the migrants. The USA is followed by the Middle East countries—notably Saudi Arabia, Israel and Yemen. The dominance of the USA and other Western countries, e.g. Canada, can be explained by refugee programs.

Sudan, and Somalia received 14.8 per cent of all Ethiopian migrants. At the same time, women account for most migrants in 8 of the 15 countries in the chart, the women’s share is more than 50 per cent. Both the

migration to other African countries and the relatively large percentage of women among migrants is likely to be a source of concern during the implementation of the AfCFTA.

**Figure 6: Top 15 destinations for Ethiopian migrants and share of women**



Source: UNDESA (2020)

### Box 8: Ethiopia's trafficking profile

Human traffickers exploit domestic and foreign victims in Ethiopia, and traffickers exploit victims from Ethiopia abroad. Scarce economic opportunities and dire poverty, coupled with familial encouragement, compel thousands of Ethiopians, including a substantial percentage of unmarried individuals under age 30, to transit, primarily via Djibouti or Somalia, to Yemen and onward to Saudi Arabia and Europe. Illegal border crossings into Kenya continue to increase, with victims destined for South Africa to connect to onward flights to Ecuador with a final destination of the United States or Canada. The least common route is through Sudan and Libya to cross the Mediterranean and ultimately reach Europe. Reports suggest traffickers exploit irregular Ethiopian migrants, who began their journeys voluntarily, in commercial sex or forced labour in transit countries and their intended destinations. Government officials and international organizations estimate traffickers exploit 70 per cent of the approximately five million Ethiopians transported to Saudi Arabia in forced labour. Generally, young men and women migrate northwest via Sudan towards Europe, while young women tend to travel through Eritrea or Djibouti to secure domestic work in Saudi Arabia. Saudi Arabia remains the primary destination for irregular migrants, representing 80-90 per cent of Ethiopian labour migration; observers report approximately 400,000-500,000 Ethiopians reside there without valid travel documentation, which increases their vulnerability to traffickers exploiting them in forced labour or sex trafficking. Ethiopian women who migrate for work or flee abusive employers in the Middle East are also vulnerable to sex trafficking.

Source: US Department of State (2020) 2020 Trafficking in Persons Report: Ethiopia

Concerning routes for cross border trade, Ethiopia's main crossings are with the following countries: Kenya (Moyale), Somalia (Bula Hawa, Beset Weyne and Goldogos), Djibouti (Obock), Sudan (Metema) and South Sudan (Moyale). The primary commodities

traded across Ethiopia's borders include livestock—especially for Kenya, Sudan and Somalia and sesame pulses (with Sudan) and cereals—maize and sorghum—for Somalia and South Sudan.

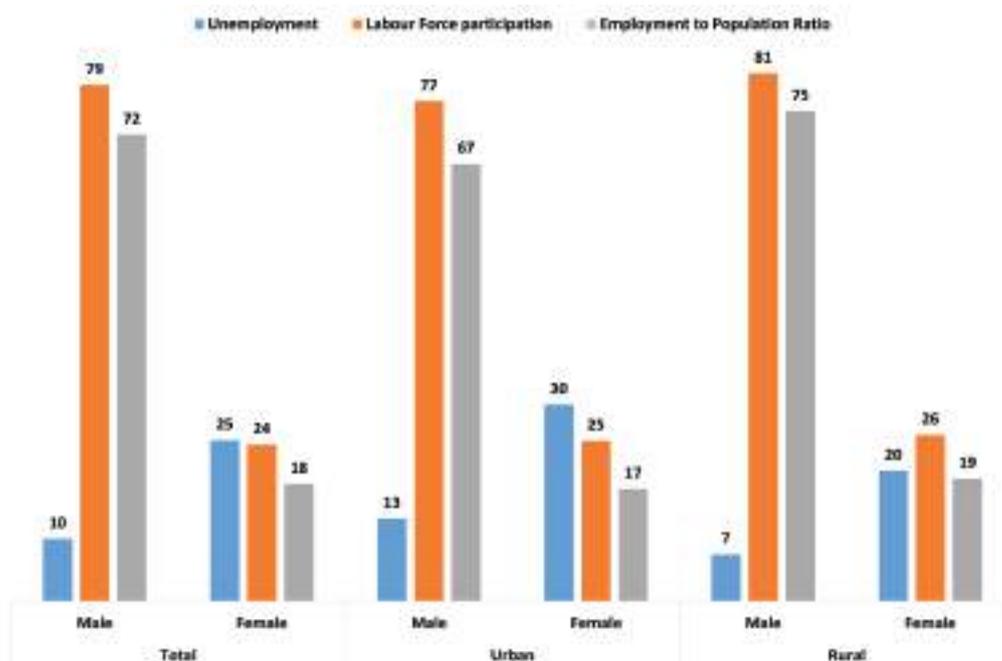
## 6.2 EGYPT CASE STUDY

### Female labour force participation and informal employment

Although Egypt has remarkably high female education attainment, women face a very severe penalty in the Egyptian labour market. Majority of young women who leave school cannot find jobs. Women face a penalty due to social-cultural norms regarding women working away from home that are pervasive in the Arab world (European University Institute, 2010)<sup>46</sup> and private sector employers concerns regarding the prospect of maternity leave (Barsoum et al., 2009).<sup>47</sup> Figure 7 shows some of the key labour market indicators for Egypt and indicated there are large gender gaps. First, the labour force participation rates for women are less than only one-third that of males, i.e. 24 vs 79 per cent and this is the case regardless of location. As such, the women's employment to population

rate is only a quarter the rate for men, i.e. 18 vs 72 per cent. At the same time, women are more than twice more likely to be unemployed, especially in urban areas. Also, unemployment rates are much higher among young women with higher education attainment. Earlier studies also show that female youth are by far less likely to be employed; Sieverding (2012) shows that 8 out of every ten female youth out of school are not in the labour force compared to only 1 out of every ten male youths.<sup>48</sup> Given that Egypt is a large-scale manufacturer of products, and leading exporter under COMESA, increased demand for manufactured goods within the AfCFTA may not benefit women, given their limited presence within the workforce.

**Figure 7: Key Egyptian labour market indicators by gender**



Source: Barsoum et al. (2014)<sup>49</sup>

46 European University Institute (2010) 'Labour Markets Performance and Migration Flows in Arab Mediterranean Countries: Determinants and Effects – Volume 3: National Background Papers Mashreq (Egypt, Palestine, Jordan, Lebanon, Syria)', European Economy Occasional Papers, no. 60 (Brussels: European Commission).

47 Barsoum, G., Rashed, A. and Hassaniien, D. (2009) 'When there is "No Respect" at Work: Job Quality Issues for Women in Egypt's Private Sector', Gender and Work in the MENA Region Working Paper Series, no. 2 (Cairo: Population Council).

Several reasons explain the female disadvantage in labour force participation among young women in Egypt including education attainment and early marriages. The participation rates among young women who have not completed secondary education (i.e. no education, primary, preparatory, general secondary and vocational secondary) are about 10% (Sieverding, 2012). Concerning marriage, participations among married young women are about half those for single women regardless of education attainment. Other challenges noted include limited mobility of female youth and limited working in the private sector due to concerns of lack of

family-friendly employment options relating to maternity leave and child-care, mentioned earlier. As such, the long wait for public sector jobs predisposes young women in Egypt to longer durations unemployed (Barsoum et al. 2014). Finally, connections matter significantly for securing a public sector job, and young women without education or from poor background are less likely to have the necessary connections to secure such employment (AfDB, 2016). Due to the above constraints, more women end up employed in the informal sector, but even then, the discrimination persists as detailed in Box 9.

### Box 9: Women in Egypt are trapped in informality

The average wages for informally employed women in Egypt are around half those of informally employed men, even though the women work longer hours and more days per week. Moreover, a large percentage of informal female workers – 63% in 2008 – are unpaid family workers, so earn nothing. Because of gender discrimination, women are often excluded from training opportunities, such as informal apprenticeships, that could help them to earn better wages and improve their working conditions. They also face higher obstacles getting hired by the informal sector as well as formal sector firms. Hence, for many women, self-employment is the only way that they can support themselves and their families. Around one-quarter of all female workers in Egypt are self-employed, and the bulk of self-employed women are in rural areas. But women entrepreneurs in Egypt experience more significant difficulties than male entrepreneurs. They have lower access to resources that they can use as collateral for loans and more restricted access to markets and networks. This would explain why most successful entrepreneurs in Egypt are older, educated males.

Source: Africa Development Bank (2016), page 23 <sup>50</sup>

48 Sieverding, M (2012) Female disadvantage in the Egyptian Labour MARKET: A Youth Perspective. Population Council, Survey of Young People in Egypt (SYPE) Policy Brief No 4.

49 Barsoum et al (2014) Labour market transitions of young women and men in Egypt. Work4Youth Publication Series No 16.

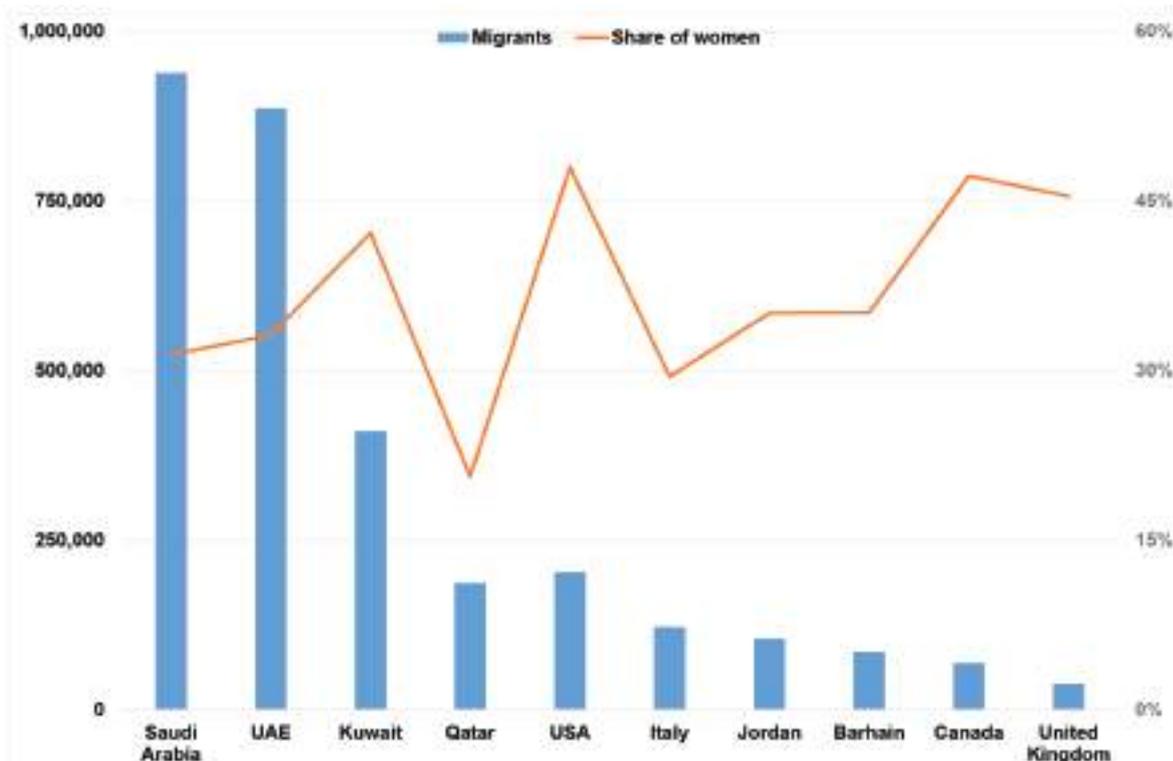
50 Africa Development Bank (2016) Addressing Informality in Egypt North Africa Policy Working Paper.

To deal with the female disadvantage, the 2016-2020 Industry and Trade Development Strategy targets to pursue industrial development while giving priority to women, youth and minorities (Ministry of Trade and Industry, 2016). Within the second pillar of the strategy on Micro, Small and Medium Enterprises and Entrepreneurship Development, the Egyptian government will provide business development services to youth enterprises. In particular, the government will provide *“Financial and non-financial services packages for startups, women and minorities provided by financial institutions, specifically NGOs.”* Furthermore, given that women in rural areas face, Sustainable Agricultural Development Strategy Towards 2030 (SADS 2030) targets to prioritize the role of women in various areas of rural development.

## Prospects for female migration in Egypt

The freedom of movement of persons provisions within the AfCFTA may not benefit Egyptian women as well. Due to proximity to the Middle East and southern European countries, many Egyptians migrate annually. Figures from the United Nations Department of Economic Affairs (UNDESA) shows that the number of emigrants from Egypt increased by 11.3 per cent between 2015 and 2019—from 2.01 million to 2.23 million. However, other African countries have accounted for less than 1 per cent as the destination of Egypt’s migrants despite sharing borders with both Libya and Sudan. Most of the migrants end in the Middle East and to less extent in North America. Figure 8 shows the ten leading destinations for Egypt’s migrants and 6 out of 10 countries are the Middle East. Also, women account for a substantial share of migrant’s number of emigrants in 2019—ranging from 21 per cent in Qatar to 48 per cent in the USA.

**Figure 8: Egypt: Share of women migrants in the 10 leading destinations, 2019 (%)**



Source: UNDESA (2020)

## 6.3 SIERRA LEONE CASE STUDY

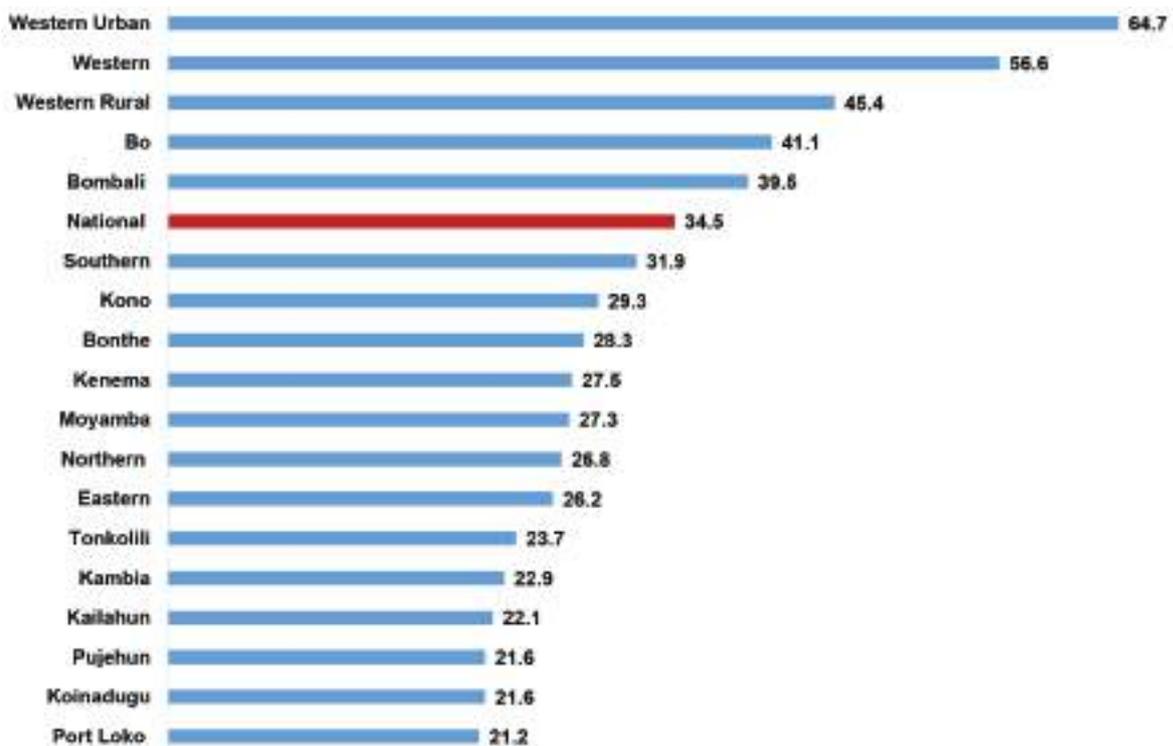
### Women cross border traders

Despite not being landlocked, Sierra Leone has substantial cross border trade with its neighbours—Guinea in the North East and Liberia in the South East as part of the Mano River Union (MRU). Significant arbitrage opportunities drive Sierra Leone’s cross border trade; the neighbouring countries, e.g. Guinea, have larger ports serving more significant landlocked countries and as such have lower transportation costs and cheaper goods. The primary commodities traded across borders include: (i) palm oil used both for cooking and as a raw material for making soap; (ii) *Gari* cassava powder; (iii) fuel, (iv) manufactured goods, (v) spare parts; and motorcycles popularly known as *Okada*. Generally, customs officials use discretion to determine what is taxable. Due to a variety of constraints, women most frequently participate in informal cross border trade.

Due to the legacy of the civil war (1991-

2002), women in Sierra Leone have low education attainment (see Figure 9) and as such those involved in cross border trade have a difficult time comprehending border procedures. As such, sometimes they form groups and use these groups or any selected individual to transport goods across borders. In other cases, women aggregate goods in one vehicle or a group of cars and these are transported across the border, and the women follow the goods using the regular transport services. In other instances, they use some form of formalized aggregated transport locally referred to as “Chattermen”. These are relatively bulky vehicles which will use the official border crossing; the women pay a flat fee or “*bulk amount*” to the chartered man who is in most case much more familiar with the border procedures to transport the goods across the border. The bulk amount is partly used to cover any tax or other official charges.

**Figure 9: Sierra Leone: Women with secondary or higher education (%)**



Source: ICF, 2015. The DHS Program STATcompiler <http://www.statcompiler.com>

Women engaged in ICBT face sexual harassment from a variety of sources, including middle-men, and securities agencies who create cumbersome procedures that may limit female participation in trade. For example, intermediaries or transporters may take longer trade routes so that women must spend the night and increase the chance of being compromised. A trading activity that should have taken one day ends up taking two days. Indeed, women are forced against their will to give in to receive certain benefits.

Due to weak trade facilitation, there is extensive use of informal border crossings in Sierra Leone (Centre for Economic Research and Capacity Building Freetown, 2018).<sup>51</sup> There is extensive use of unofficial or informal border crossings; however, the use of such routes is majorly seasonal, used mainly during the dry seasons when rivers dry up; new unofficial border crossing can be created during the dry seasons that can use either vehicles or motorcycles. Some of the informal crossings are only operated by security and not customs officials and as such, require little or no documentation at all. On the other hand, during the rainy seasons—only official border crossings are utilised whereas, during the dry season, both unofficial and official border crossing are used.

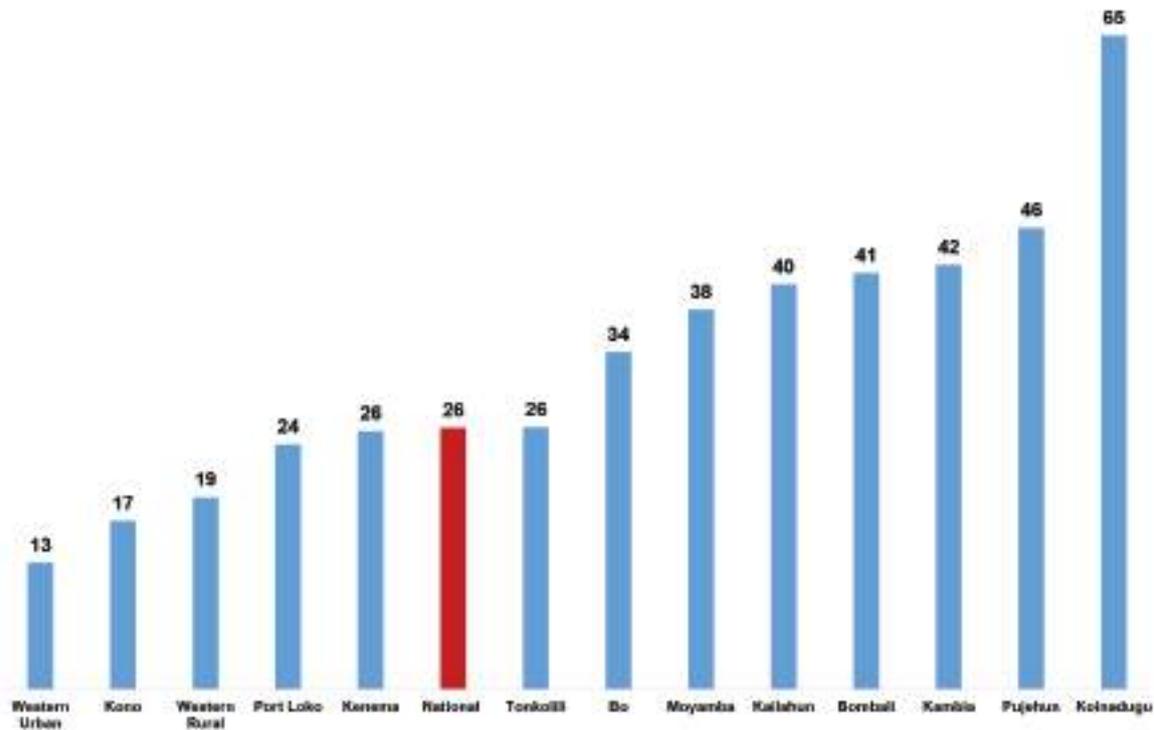
## Child labour in Sierra Leone's border areas

Children resident in border areas routinely supports parents to undertake informal

trade. Children are used as carriers of goods, especially for traders using informal border crossing and for short distances. Also, during weekly “*Luma*” market days, children supporting parents to sell merchandise. In other instances, border communities may use other relatives’ children to help them undertake informal trade. This is the case, despite the presence of compulsory education policy in Sierra Leone, early marriages are common along border areas. Figure 10 shows the distribution of child labour (all children aged 5-17 years) across districts of Sierra Leone based on the 2017 MICS. It is worth noting that the districts *Koinadugu* and *Pujehun* have the highest rates of children engaged in child labour 65 and 46 per cent respectively. Apart from *Koinadugu* being a significant gold mining district, it also borders Guinea to the North East while *Pujehun* borders Liberia in the South East. A previous study on Sierra Leone’s trade with other MRU countries showed that there is only one official border crossing in *Koinadugu* district at *Dogoliya* with two customs officials (Centre for Economic Research and Capacity Building Freetown, 2016).<sup>52</sup> Both the limited number of official crossings and customs personnel predisposes the area to a high prevalence of child labour due to the porous nature of the border. Furthermore, the porous border crossings where there is limited use of documentation to cross borders may be serving as an incentive for children to join trade early. The limited availability of schools at the border areas also increases the propensity for children to be engaged in exploitative labour.

51 Centre for Economic Research and Capacity Building Freetown (2018) The realities of cross-border trade between Sierra Leone and its neighbours

52 Centre for Economic Research and Capacity Building Freetown (2016) Pilot survey on cross border trade from Sierra Leone to other Mano River Union countries.

**Figure 10: Sierra Leone Rates of child labour (all children aged 5-17 years) by districts**

Source: Author's estimates from the 2017 Sierra Leone MICS survey

## Addressing Child Trafficking in the Mano River Union region

The project's undertakings included the training of border officials, CSOs and border communities on child trafficking and prevention and response mechanisms, other direct interventions such as aiding the police in identifying and reunifying victims of child trafficking, the development and signing of the Standard Operation Procedures (SOP) and the lobbying to reform the domestic trafficking laws that are currently in place in the three countries. In the words of the Ministry of Social Welfare, Gender and Child Affairs in Freetown: *"A part of what DCI-SL and its counterparts in Guinea and Liberia do, is their work on children on the move,*

*especially those who cross the borders between Sierra Leone and Liberia, and Sierra Leone and Guinea. [...] What they do is they identify victims of child trafficking, rescue them, put them through the referral mechanism but also, they train personnel at the border to identify, rescue and reunite these children with their families. Their key outcome has been around advocacy, and the development of the Standard Operating Procedures, a document for border personnel with steps they need to identify victims and make sure that they have access to the services they need and prosecute alleged perpetrators."*<sup>53</sup>

53 Ministry of Social Welfare, Gender and Child Affairs, Source 46, note 1, Freetown (03/12/2018)

### Box 10: Development of the Standard Operation Procedures (SOPs) in MRU countries

In 2017, Defence for Children International (DCI) worked with border officials, community leaders and CSOs from Liberia and Sierra Leone to develop Standard Operation Procedures (SOPs) on how to prevent and respond to cross border child trafficking. After the SOPs were developed, law enforcement actors were trained on how to implement the SOPs.

As a result of the SOPs, border officials report increased efforts to arrest suspected child traffickers. For example, two women who wanted to traffic two children from *Kenema* (Sierra Leone) to Liberia for sale were arrested from the collaboration of security officials with community members of *Bomi* County, Liberia.<sup>54</sup>

As noted earlier, engagement of children in cross border trade put them at higher risk for trafficking, because trade activities lure them into moving from one place to another in quest of making more money. Also, children who trade at border communities become familiar with immigration and security officials and can move in and out without undergoing proper immigration scrutiny.

Finally, with respect to CSEC, fishermen are part of the groups targeting children. In Sulima and Pujehun districts in Sierra Leone closer to the border with Liberia significant fishing activities involving fishermen mainly from Ghana, Liberia and Sierra Leone has increased the rate of CSEC in that community.

## 6.4 ZIMBABWE CASE STUDY

### Child marriage

**The 2013 Zimbabwe Constitutions recognizes the minimum age of consent to marriage as 18 years.** Section 78 (1) and (2) of the Constitution outlaws child and forced marriages.<sup>55</sup> On the other hand, Section 81(1e) provides for protection from sexual exploitation, labour and any form of abuse. Nonetheless, there are discrepancies since previous laws that are still on the statute books allow marriage before 18 years. In particular, the 1951 Customary Marriage

Act is silent on the minimum age but allows unregistered marriages. On the other hand, while the Marriage Act enables girls to marry at 16 years, boys can only get married at 18 years. In 2016, the Constitutional Court ruled that the age provisions under the Marriage Act were unconstitutional. In 2019, Zimbabwe devised a two-year strategy to end child marriage. The strategy targets to ensure that Zimbabwe is free from child marriages where both boys

<sup>54</sup> DCI-SL, Source 49, note 1, Freetown (03/12/2018);

<sup>55</sup> Government of Zimbabwe, Constitution of Zimbabwe Amendment (no 20) Act 2013

and girls enjoy equal status. Among the approaches proposed in the strategy include the promotion of child-led initiatives through peer education and other platforms, e.g. U-Report by UNICEF. The plan to end child marriage also commits to campaign for the alignment of Zimbabwe's laws with the Constitution as well as international standards. The alignment will be attained partly by ensuring that all children are registered through mobile birth registration. The plan also targets to ensure that all girls remain in school and complete secondary education.

The engagement of children particularly girls in the informal sector such as ICBT activities leads to a tendency for their parents to consider them matured and ready for marriage. Related, their involvement in these economic activities also lower their chances to continue schooling, thereby increases chances for them to be married off. Additionally, border areas are usually far removed from national-level decision makers, have weak child protection institutions and the orientation of the people is more economic driven with less consideration to child protection.

## Child trafficking in Zimbabwe

**In Zimbabwe, trafficking of persons including children is undertaken through a syndicate of organised traffickers including other women, truck drivers and destination**

**criminal gangs.** According to the US State Department's 2019 Trafficking in Persons Report, children from Zimbabwean towns bordering South Africa, Mozambique and Zambia are still trafficked and subjected to forced labour and prostitution. Human traffickers exploit domestic and foreign victims in Zimbabwe. A United Nations High Commissioner of Refugees (UNHCR) 2018 report on child trafficking noted that many Zimbabwean adults and children migrants enter South Africa with the assistance of taxi and bus drivers who transport them through the Beitbridge border or nearby unofficial crossing locations. There is an intricately linked syndicate of traffickers who include transporting bus drivers, women traffickers of young children and contact persons in South Africa destinations to include Musina, Pretoria and Johannesburg. Trafficked persons are transferred to criminal gangs that subject them to abuse, such as forced prostitution.<sup>56</sup> The opening of borders through the AfCFTA might exacerbate child trafficking. Box 11 identifies some of the syndicated involved in child trafficking in the SADC region.

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56 United Nations High Commissioner of Refugees (UNHCR) (2020). 2018 Trafficking in Persons Report Zimbabwe

### Box 11: Syndicates for child trafficking

Some of the trafficked persons are transferred to criminal gangs that subject them to abuse to include forced prostitution.<sup>57</sup> Asked about whether child trafficking happens, one officer from some of the trader's association had this to say;

*“Yes, this is happening. We hear that women are at the forefront. They are the agents that transfer children, both boys and girls from source to destinations. There are rumours that the children are drugged; that is, they are neither reactive nor do they cry during transit.”*

### Challenges faced by women ICBTs in Zimbabwe

High rates of unemployment are among the significant push factors for the growth of informal unemployment and ICBT. The country has the ZCBA as the lead institution representing cross border traders and is responsible for coordinating and implementing COMESA programmes. Other relevant cross border associations include Zimbabwe chambers of informal economy association, Trade and Commerce Small and Medium Enterprises, Women in Trade, Bulawayo Vendors and Traders Association.<sup>58</sup> SADC region adopted a simplified trade regime. It allows for individuals to purchase goods worth 1000 and below without the need for permits or licences.

**Infrastructure:** There are no restrooms at the borders for use by women traders. Asked to comment on the availability of infrastructural facilities at the border, all the female cross border traders interviewed highlighted the precarious situations of sanitary facilities at the border posts. Some of them had this to say;

*“There is nothing, especially at the Beitbridge border. The situation is terrible. When we travel via Masvingo at least, there is a garage which offers toilet facilities and food. Women try to use these facilities before they cross.”*

**Female cross border trader.**

**Permits and licenses:** trading in the region requires some form of permits and licenses. Some agricultural products, e.g. potatoes and others, need permits to export or to import. Most of the offices which issue permits are centralised in Harare, making it difficult for traders who are operating from different parts of the country to access them. Furthermore, there is also a lot of bureaucracy, thereby affecting women trying to access permits and licenses. Overall, undue delays at border crossing force women to opt for unofficial channels as described in Box 12.

<sup>57</sup> United Nations High Commissioner of Refugees (UNHCR) (2020). 2018 Trafficking in Persons Report Zimbabwe

<sup>58</sup> Interview with official from COMESA-ZCBA

## Box 12: Undue delays at border crossings

In Zimbabwe, female traders experience undue delays as the border personnel try to extract artificial delays to draw bribes from the female traders. Most male officials do not hold female traders in high esteem. Asked about whether female traders experience sexual harassment from border officials, one of the female traders interviewed had this to say;

*“To some extent, there is some sexual harassment by border officials. When we arrive at the border in a bus, the officials would announce that those who want to cross fast stand on a separate queue. The women would then pay to the officials, and they are released. But those who do not have the money to pay to the officials remain at the border, and the drivers of the buses sometimes end up leaving them. What happens to those women who had stayed behind is not known, and there are fears that they could be exposed to sexual abuse.”*

Non-recognition of female association members: A lot of women that have membership certificates for the associations they belong to noted that when they cross borders, they are not recognised. They are treated as informal traders and must bribe. The majority have membership cards as traders, and yet when they get to the border, the membership cards are not required.

*“Even if one has a letter from a small to medium enterprise or a membership card from recognised trade associations, border officials do not recognise these, and this, therefore, leads to increased levels of corruption involving the border officials”*

Female Cross Border Trader 1.

Potential corruption from Border Officials: Female traders interviewed noted that there is a limit of 4 items for each product can be transported tax-free. To cross borders faster, bus drivers demand contributions from every trader to build up between 100-200 dollars. These informal payments are solicited and availed to bus drivers who negotiate with border officials for faster clearance. This practice undermines officially registered traders. On the other hand, there are also non-trade barriers in the form of roadblocks that dot major border highways.

### Box 13: Numerous roadblocks between borders and major cities

Female cross border traders experience many roadblocks between the main borders and towns of destination, which can range from 4 to 6 roadblocks. In Zimbabwe, there are reported cases of such roadblocks concerning Kariba, Chirundu and Beitbridge border. Some such roadblocks are 500 meters from the main border. As such, there is a need for orientation of Zimbabwe Revenue Authority and police officers to understand what is chargeable and what is not under the simplified trade regimes. Most such payments that are done along the roadblocks do not issue receipts which are associated with bribery and corruption. A female respondent had this to say;

*“After the Chirundu border officials have cleared us and we are ready to go, we encounter numerous police roadblocks. Makuti roadblock is the most famous one. Although most things would have been cleared at the main border, they still demand everyone to declare their goods at the roadblocks. Some of the female traders lose their goods because of limited knowledge by the police officials on what is chargeable.”*

## 6.5 KENYA CASE STUDY

### Commercial sexual exploitation of children in coastal areas

Due to its relatively large number of tourists, before the COVID-19 pandemic, Kenya was faced with a severe challenge of commercial sexual exploitation of children. Earlier estimates indicated that at least 50,000 children, mainly at the Kenyan coast, were involved in commercial sexual activities.<sup>59</sup> Also, a 2006 UNICEF study revealed that more than 30,000 children were involved in child prostitution. Due to the widespread prevalence of CSEC, the Government of Kenya has overtime instituted legal frameworks to curb the vice. For example,

the 2006 Sexual Offences Act stipulated the minimum age of consent as 16 years. However, this falls short of international standards such as those by the ILO where the minimum age is 18 years.

Furthermore, a report by ECPAT notes that despite the availability of these legal, safeguards, the enforcement of these legal provisions in Kenya is a challenge.<sup>60</sup> In 2013, Kenya developed a national plan of action against CSEC. Among the activities planned concerning recovery and reintegration of formerly abused children include

59 End Child Prostitution in Kenya (ECPIK) 2009 Baseline survey on Child Sex Tourism

60 ECTAP (2007) Confronting Commercial Sexual Exploitation of Children in Africa

61 National Council for Children's Services (2013) The National Plan of Action Against Sexual Exploitation of Children in Kenya

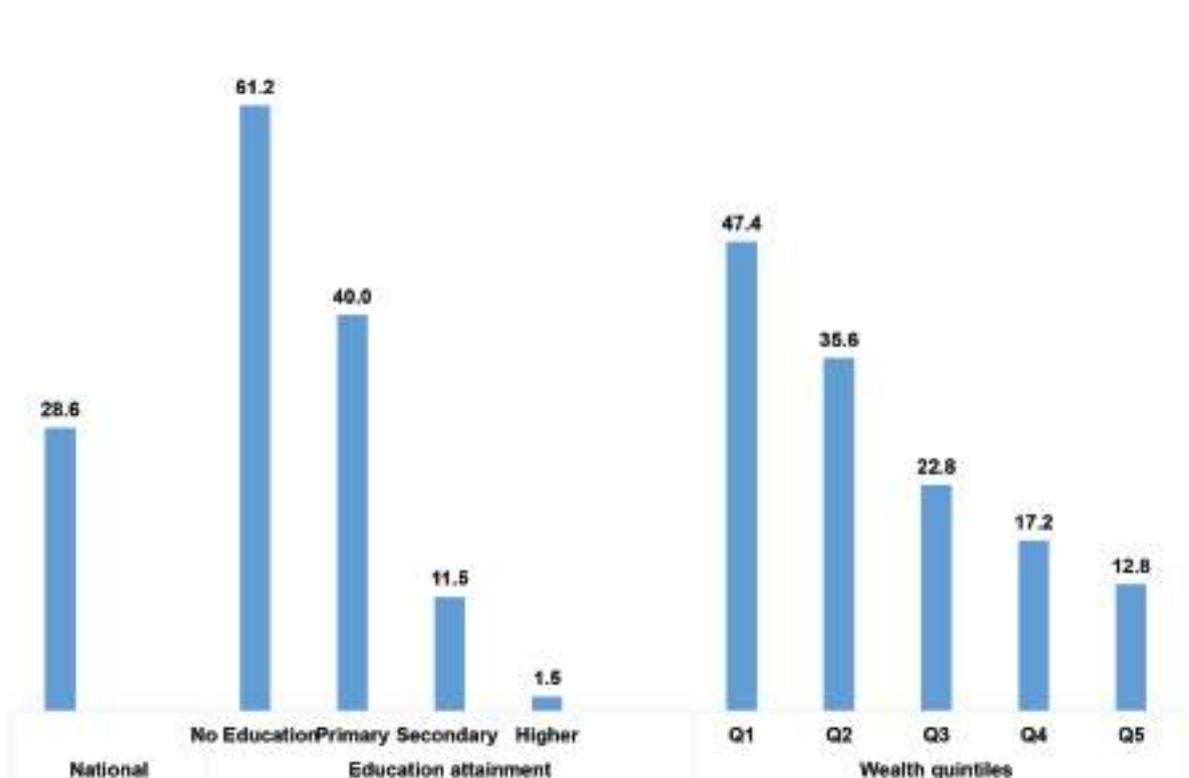
“establishing a national documentation centre on child sexual abuse (CSA) and sexual exploitation of children (SEC).<sup>61</sup> Besides, the plan proposes to provide rescued children access to alternative livelihoods through vocational training as well as start-up grants.

### Child marriages in Kenya

Another dimension of CSEC in Kenya is through early marriages since it involves children under 18 years. Figure 11 shows the distribution of child marriage rates among young women aged 20-24 years by education attainment and wealth status. The rate of child marriages among

children without any education is more than double the national average (61.2 vs 28.6 per cent). The chart also indicates that children who attain secondary education are significantly less likely to enter early marriages. Concerning wealth, again is the children from the bottom 20 per cent of households likely to be married early. Based on location, estimates indicate that the three leading areas with the highest rates of child marriages are North East (38 per cent), followed by Nyanza (35 per cent) and Coastal areas 31 per cent (not shown in the chart). Hence, providing education beyond primary school is critical for addressing the various facets of CSEC in Kenya.

**Figure 11: Kenya: Child marriage among women aged 20-24 years by education attainment and wealth status**



Source: Author’s calculations from the 2014 Kenya Demographic and Health Survey

## Addressing child marriages and CSEC in Kenya

The Government of Kenya has put in place a legal framework to protect children from CSEC. For example, the Government is implementing the National Plan of Action for Children (2015-2022) which is raising awareness among the public that child marriages can lead to gender-based violence. On the other hand, the Trafficking in Persons Act of 2010 criminalised sex and labour trafficking and set severe penalties upon conviction—of not less than 30 years imprisonment or a fine of not less than 30 million Kenyan shillings (USD 290,700). Furthermore, Sections 14 and 15 of the Sexual Offences Act of 2006 criminalised the assistance of child sex tourism and child sexual exploitation with punishment like those of other serious crimes, such as rape. At the same time, the Enactment of the Counter Trafficking in Persons Act of 2010 established Counter Trafficking in Person Advisory Committees that combats trafficking and offers rehabilitation of rescued victims. Section 14 of the 2001 Children Act protects children from early marriage, customs, or any harmful traditional practices, including sexual exploitation.

The GAA programme in Kenya is supporting the Government to implement laws to protect girls from abuse. In Kenya, the GAA interventions are implemented by East Africa Centre for Human Rights (EACHRights), Forum for African Educationalists (FAWE), East Africa Civil Society Organizations Forum (EACSOFF) and Coalition on Violence Against Women (COVAW). The programme has contributed to the identification of policy gaps and strengthening existing policies around child marriages. Because of the interlinkages between CSEC and Child trafficking, the GAA partners in Kenya have designed the programme response to include CSEC and child trafficking (CT) while integrating economic inclusion. Other key achievements of the GAA programme include implementation of the school re-entry policy and Bridging the Economic Empowerment Gap through –Enrolment of learners into TVETS. The 2019 midterm review of the GAA programme noted some of the following vital achievements listed in Box 14.

## Box 14: Addressing CSEC in Kenya.

***Involvement of the Private Sector:*** The GAA programme recognised that the opportunity for economic independence of girls, would reduce early marriages. The programme involved informal private sector players in the largest slum in Nairobi Kibera. The programme targeted transporters notably Bodaboda (motorcycle riders) and Matatu transporters who used to abuse young girls sexually contributing to teen pregnancies. They enticed girls through offers of free rides to young girls. The GAA programme sensitised the transporters to play a critical role in fighting SGBV and child marriages. The programme worked with these kinds of informal private players to report cases of SGBV and become programme allies in ending child marriages.

**Community leadership, particularly traditional leaders, engaged in shunning CSEC and CT. Traditional leaders mainly chiefs having been trained on CSEC and CT.** They indicated they now understand the negative aspects of CSEC and CT and the need to change the harmful norms, values, beliefs and practices. The community leadership reported meeting at least once a month to discuss matters of child protection.

***“We discuss the challenges faced around CSEC and CT, and we come up with the solutions to manage the problem. The training we received from COVAW has been instrumental, we are many chiefs, and we exchange experiences in our communities and idea on tackling the challenges”*** Mr Hamadi Halfani: Area Chief Kwigwede, Shirazi Village, Musabweni Sub County - Kwale County.

**The CSEC and CT Survivors were supported through the GAA programme to access economic empowering interventions. The programme** in Kwale reached out to survivors of CSEC and CT, training them on the negative aspects of CSEC and CT. The survivors were empowered to engage in gainful economic activities, through skill development offered by the members of the informal private sector in Kwale and linking them to the ongoing government projects such as the Kenya Youth Employment Opportunities Project (KYEOP). Adolescents, Girls and Young Women (AGYW) were educated on the importance of reporting child abuse CSEC and GBV.

**Establishment of CSEC and CT structures to spearhead change in norms, values, beliefs and practices of CSEC and CT.** Through identifying community activists' champions, the GAA programme has registered some impact in the form of communities denouncing some of the harmful social norms. Organisations have started to report CSEC and CT issues through the structures that the GAA supported them to develop.

### Box 14: Addressing CSEC in Kenya.

*“Most of the community members have changed their attitudes towards the young mothers, they used to send a child away if they got pregnant, but now they are now understanding and try to find ways to help their child.”* County Chairperson, Lunga-Lunga- Sub-County, Kwale County.

**Community Level:** At the community level, the thrust is to address the social norms that communities are practising that are negative and contributing to child marriages. Community sensitisation and education on the importance of girl child education are emphasised. The programme works with a community leader (Nyumbakumi) responsible for ten households. The sensitisation through the Nyumbakumi targets cultural gatekeepers to include chiefs, religious leaders, and village herds. Nyumbakumis lookout for girls that would have joined their communities for marriages or raise the alarm when young girls disappear. They are the community watchdogs for tracking or stopping possible child marriages.

Source: Extracted from GAA et al., (2018) <sup>62</sup>

## Cross border trade in Kenya

In 2017, Kenya developed a new trade policy which targets to transform Kenya into a competitive export-led economy. Among the complementary support policies and measures, including those focusing on gender equity and inclusive youth approaches to trade development. The policy identifies two significant challenges that constrain women participation in trade. The first relates to the lack of an appropriate legal framework to address unfair procedures against women traders. Secondly, women are affected by limited access to financial services due to lack of collateral. Women face challenges accessing resources despite Kenya being one of the few African countries that have laws that all equal inheritance between boys and girls. As such, the policy commits to *“Develop laws,*

*regulations and eliminate those that hinder women’s access to financial assistance including credit; since women rarely own property.”*

Kenya has 24 official border crossing with its five regional neighbours. At the same time, agricultural produce and manufactured goods dominate cross-border trade in West and South of Kenya, i.e. with Uganda and Tanzania, in the North and in the North-east, trade dominated by livestock. Traders buy livestock from Ethiopia and Somalia and sell it to Kenya. Unlike other types of trade, livestock trade entails substantial travel inland to access markets, and this negatively affects women. Overtime, Kenya adopted various laws to support trade in agricultural foodstuff, albeit with some

62 GAA, Plan International, Terres des Homme, Primson Management Services (2018) Mid Term Review of the of the Girls Advocacy Programme in Kenya (2016-2018)

reversals. Despite Kenya being a signatory to the EAC Common Market Protocol (CMP) *“which guarantees the free movement of goods, services, capital and investments.”*, the country has routinely banned exports of agricultural produce—especially Maize which is a national staple—due to food security in and safety as well as other national concerns. Some of these grain trade bans are announced at very short notices e.g. overnight, and this adversely affects women

who trade in such goods. Export and import bans on foodstuff usually fuel illegal cross border trade activities, and these are very risky for women.

Kenya’s main cross border points are with Ethiopia (Moyale), Tanzania (Namanga), Uganda (Busia and Malaba), and Somalia (Dhobley). The main traded items are cereals—especially maize—for Uganda and Tanzania.

## 6.6 UGANDA CASE STUDY

### National Trade Policy

Uganda has an established framework guiding trade—the 2007 Uganda National Trade Policy. However, this Policy does not consider gender issues explicitly. Nonetheless, in one of the policy actions, the Policy commits the government to *“Encourage the empowerment of disadvantaged groups; particularly women, youths and people with disabilities with a view to enabling them participate more in trade”*. Additionally, the policy hardly makes any reference to informal trade despite a large number of Ugandans engaged in the informal sector. On the other hand, whereas the country has a national committee on NTBs—many of which affect women—the Ministry of Gender Labour and Social Development is not represented on this committee. Uganda’s main cross border points are with DRC (Mpondwe), Rwanda (Katuna), South Sudan (Nimule and Elegu) and Tanzania (Mutukula). The leading items traded informally include rice, coffee, bananas, beans, palm oil and wheat flour. Together, these six products accounted for at least 40% of the total value of informal cross border trade during 2015-2018 (UBoS, 2019).<sup>63</sup>

### Sexual harassment of women traders

Women cross border traders face stigma. Culturally women were expected to stay at home, and when they ventured into work, there was an expectation that jobs they performed would be close to the family. Cross-border trade may require substantial movements, and this may go against traditional norms. Venturing into this kind of work attracts stigma as such women are considered challenging the role of men. According to one of the key informants interviewed as part of this study—the Chairperson of Katuna women’s cross border cooperative—women traders are despised

*“Men always look at us as former prostitutes. Even after getting married, they make fun of our husbands through claims that our husbands married prostitutes”. They look at all women dealing in cross border trade as sex workers. Even members of the broader community who do not participate in the cross-border trade think that such stories are valid for all women engaged in the work”.*

63 UBoS (2019) The Informal Cross Border Trade Survey 2018. [https://www.ubos.org/wp-content/uploads/publications/06\\_2020ICBT\\_2018\\_report.pdf](https://www.ubos.org/wp-content/uploads/publications/06_2020ICBT_2018_report.pdf)

Such perceptions can lead to domestic violence within homes in cases where husbands do not entirely approve of jobs that involve substantial movements. Indeed, some women have been perceived as rebels by their family members for venturing into cross border trade.

**Women face sexual harassment through unwanted sexual advances from the multitude of men that operate in the border area, e.g. Boda Boda or motorcycle transporters, money changers, and security**

officials. When women pay no attention to such advances, they are branded, prostitutes. However, such negative perceptions against women cross-border traders are not universal. For example, along the South Sudan border crossing where most women ICBTs are widows of ex-combatants in the South Sudan civil war, men recognise that women have to work to support families. Women cross border cooperatives are the heart of addressing sexual harassment and intimidation as described in Box 15 below.

### Box 15: Busia (Uganda) Women's Cross Border Cooperative

Busia (Uganda) Women's Cross Border Cooperative was formed in 2013 and had over 1200 active members before the COVID-19 pandemic and consequent border closures. Initially, it started as an association but later registered as a cooperative. The cooperative has different clusters based on the nature of commodity traded, e.g. produce, cereals, clothing, fish etc. As such, even women dealing in relatively smaller volumes can take advantage of belonging to a cluster to trade. The cooperative was successful in advocating for the establishment of women's desk at the Busia OSBP—whose day-to-day activities are run by an information officer. The women's desk provides trade information and advises traders on goods that either banned or restricted. The cooperative provides identification cards to members which can be used to secure safe overnight storage for goods at the OSBP. The cooperative has supported the popularisation of the fact that various government documents, including the simplified trade certificates of origin, are offered free. The presence of a women's desks and access to information provided by the cooperative has also reduced potential avenues for sexual harassment and exploitation. This women's cooperative is used as a benchmark on the African continent. Furthermore, the Customs Office at Busia OSBP has a designated official desk for women, commonly referred to as the *female champion*. This champion supports women in the clearance of goods and offers taxation information.

Source: Source: Interview with Chairperson Busia Women Cooperative

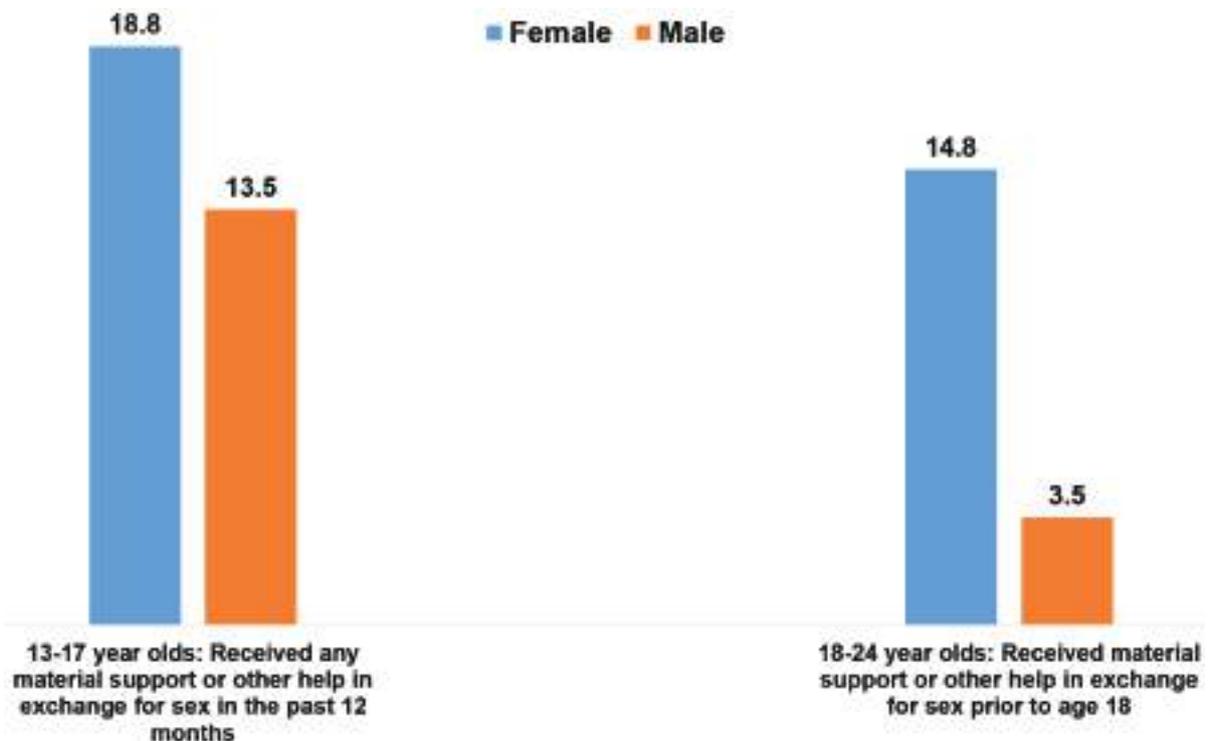
## Addressing CSEC in Uganda

In addition to Ghana, Ethiopia, Kenya, Liberia, and Sierra Leone, Uganda is the other GAA country in Africa. In Uganda, the programme aims at strengthening processes that enable girls, and young women participate equally in decision making on issues that affect them. Through lobbying and advocacy, the GAA programme addresses the root causes of Gender-Based Violence (GBV) and Economic Exclusion (EE) of girls and young women. Apart from EE, the other specific forms of GBV that the programme addresses include: (a) *Child Marriage*, (b) *Child Trafficking*, (c) *Commercial Sexual Exploitation of Children (CSEC)*, (d) *Economic Exclusion*, and (e) *Child Labour*. The programme is being implemented in Tororo, Bukedea, Kamuli,

Alebtong, Buyende, Lira, Wakiso, Napak, Busia, Bugiri, and Moroto districts, by various local partner Civil Society Organisations (CSOs), namely, Federation of Uganda Women Lawyers (FIDA) (with Dwelling Places and Rahab Uganda), Platform for Labour Action (PLA) [with Somero Uganda and Ecological Christian Org. (ECO)], Restless Development, Trailblazers Mentoring Foundation (TMF), and Uganda Youth Development Link (UYDEL).

CSEC is pervasive in Uganda. According to the Violence Against Children (VAC) survey for Uganda, at least 15% of young women report engaging in sexual activities in exchange for material support or other help (Figure 12).

**Figure 12: Uganda: Commercial exploitation of children**



Source: (MGLSD, VAC, 2018)

Furthermore, Box 16 illustrates how children in border areas are vulnerable to childhood prostitution.

### **Box 16 Commercial sexual exploitation of children at the Kenya-Uganda border**

Children are exploited into child prostitution at the borders. However, not all children trafficked or who end up engaging in prostitution are initially from the border area. Child traffickers typically go to rural areas and lure young girls to come and work in bars and end up as prostitutes. The traffickers usually operate as pimps to truck drivers. Due to weak bargaining power and naivety, young girls may not be paid for the sexual services performed. In addition, children may suffer further exploitation as they may be easily coerced to perform non-traditional sexual acts, e.g. engaging in anal sex.

The frequent availability of truck drivers and other transporters many of whom are away from their regular place of abode provides an incentive for young girls to engage in prostitution. On average, the payments for sex are usually higher than the regular earnings, e.g. salaries from agriculture or salaries, e.g. for teachers. Prostitution offers quick money for relatively short durations, e.g. UGX 50,000 (about US\$ 13.5) per night compared to a teacher's salary of UGX 470,000 (about US\$ 127). Finally, children of sex workers are more likely to end up engaging in cross border trade underage.

Cultural attitudes to women's involvement in trade may also inadvertently expose young girls to exploitation. Some parents exploit the community's sympathies towards the girl child and encourage young girls to engage in trade activities to support the family. Societies know that girls are vulnerable, so parents take advantage of this fact that the community will express pity for their vulnerability and purchase any goods sold by girls. Although this is not direct sexual exploitation, however by sending them out on the street is enough exposure to sexual exploitation.

Source: Interview at Busia Border

In Box 17, a potential victim of CSEC in Uganda describes how she escaped from exploitation and ended in rehabilitation.

### Box 17: From trafficking to rehabilitation

I was taken from my home district in Iganga in Eastern Uganda at the age of 9 years. After losing both my parents, I was initially taken-on by my grandmother, who also looked after other orphans. A person known to our family made an offer to my grand mom to take me to the capital Kampala for further education. Due to her meagre earnings and limited support, my grandmother readily warmed up the idea; that is how my trafficking journey started. My new guardian resided in Kisenyi—a famous slum in Kampala. Upon arrival at my new home, instead of enrolling into school, I was allocated manual laundry tasks—performed on behalf of my benefactor’s clients. My guardian kept all the proceeds of all fees paid by the clients, I received little or no food, and I slept on a cold floor. Other girls in my guardian’s custody engaged in prostitution. I often heard them discuss that I was too young to join the sex trade.

After six months at the new home, I was rescued by Rahab—an NGO that supports victims of trafficking in Uganda. Rehab staff regularly visit hot spots of trafficking and scout for victims. I was spotted after a few months of my arrival in Kisenyi. Partly, because I was always hungry, the NGO enticed me with the offer of food. Rahab staff stealthily visited me twice a week and talked to me until I was convinced to join their rehabilitation centre located in the outskirts of the capital Kampala. That was twelve years ago. I have since continued with my education, and I have a dream of becoming a journalist. Unfortunately, at the rehabilitation centre, I heard more traumatising stories of victims of trafficking mostly from young girls previously taken to work in the Middle East. These stories have opened my eyes to what is happening in Uganda and gave me the determination of continuing with my education as I pursue my dreams of becoming a journalist.

Source: Source: Interview with a survivor at Rehab Centre, August 2020



## 7. CONCLUSIONS AND RECOMMENDATIONS.

**Labour standards targeting child labour are not part of the AfCFTA protocols.** The implication for this is that without any requirements to enforce labour standards, they will be no protection of fundamental human rights. Secondly, without in-State Party enforcement of international child labour conventions, some State Parties stand to gain an unfair trade advantage if they are exporting goods produced by children.

**Children actively participate in informal cross border trade.** Child participation in running the family enterprises may expose the child to money, even when unpaid. Beyond the family business, exposure to the border community can serve as a pull factor for children out of school and into trading activities. Once exposed to cross border trade, children are more likely than not to drop out of school. Children exposed to both “easy money” and various routes for conducting cross-border business may develop a negative attitude towards continuing schooling.

**Opening up of trade in the region might lead to a situation where adolescent girls start migrating in search of educational and livelihood opportunities in other countries.** Child marriages linked to migration necessitate complex relationships among authorities in the countries involved. State Parties will be obliged to monitor and enforce appropriate legislation to protect these children within their borders, regardless of their place of origin.

**Trade routes and road transporters within and across State Parties are the primary vehicles for child traffickers.** Weak border controls in some regions also offer traffickers the opportunity to cross with unregistered children who have no legal documents to cross borders. On the other hand, the requirements for traders moving with children across borders are not harmonized, between State Parties or across RECs. Child trafficking cases are challenging to trace and prosecute because minors are not responsible for their actions, and there is a thin line between smuggling and trafficking. Increased trade and movement of people as the borders are opened further for business, is likely also to increase child trafficking.

**Women continue to dominate cross border trade but remain highly informal and operate on a small scale.** Many young women are stuck in the informal sector and never transit or grow their businesses. The limited growth of women-led enterprises is linked to various constraints including economic reasons—like poor access to affordable financial services as well as limited networks and connectivity. Women are often unaware of the types of goods demanded in the market. Women also face higher trade costs due to expensive transportation charges and the use of middlemen. As such, several regional projects are supporting attempts to move women to some form of formalisation by encouraging women to work through cooperatives.

**Despite the operation of the STR in some RECs which sets the thresholds below which goods are not taxable border procedures are not correctly understood and not utilised by women.** This is compounded by the environment of generally low education attainment and the platforms and forms through which the procedures are communicated. Inadequate comprehension of border procedures leads women to exploitation through paying for tax-free goods. It also predisposes women traders to use unofficial or illegal border crossings partly as a means of avoiding interface with unfamiliar border procedures.

**Sexual harassment, intimidation, discrimination, and other forms of exploitations persist.** Women face sexual harassment from both customs officials and security agencies which has persisted over the years and gotten worse under the COVID-19 pandemic. As a result, young women are fearful of engaging with the exploiters and sometimes choose to use unofficial border-crossings when faced with repeated threats of exploitation and abuse. The presence of women's desks at OSBP and the access to information has reduced the available avenues for exploitation.

**There is no uniform as well as strict enforcement of rules regarding travelling with children across borders, and this can increase the threat of child trafficking.** It is not easy to establish the parents of a child in the absence of easily verifiable official documentation, e.g. national ID, passports and birth certificates. However, some countries, like Rwanda strictly enforce rules regarding travelling with children across the border. Without the acceptable documentation, a person cannot travel across any Rwandese border with a child.

**The proliferation of OSBP has offered some respite in access to crucial infrastructure that lowers the cost of doing business for women.** Some OSBP offer aggregation centres these are facilities recognised by a customs office where a trader can store goods for up to 30 days. Young women currently do not pay for the use and storage of aggregation centres. In other stances, the OSBP offer a shade for rest which can also serve as an area where a trader can leave her consignment temporarily. In cases where no established infrastructure exists, women's trade cooperatives have pooled resources to hire space that they can use as an aggregation centre.

**With the implementation of the AfCFTA, women dominated informal trade may suffer due to competition from multinationals and other big traders.** It is mainly women who trade across multiple borders who remain very few at the moment that stand to benefit from increased multi-lateral trade. Also, women ICBTs may be outcompeted when the enforcement of quality standards sets in. This will arise because women presently trade in agricultural products with limited value addition; investments in standardisation are out of reach for most ICBTs.

**Despite the ratification of several trade agreements, some countries to continue to implement ad-hoc trade policies which are detrimental to women traders.** For example, governments routinely institute export and import trade bans some at noticeably short notices. By the time such information on changes in trade policy reaches women traders at the border, they may have already invested significant amounts with no recourse. Hence, there is a need to facilitate traders to acquire information regarding any changes in trade policies in time, before they arrive at the border.

We recommend the following;

## a. AfCFTA Secretariat

### **Establish an AfCFTA sub-committee on human rights**

The AfCFTA should consider establishing a sub-committee focused on watching human rights issues in trade issues. This can be similar and operate the same way as other committees identified in the protocol, e.g. the Sub-Committee on Trade Facilitation, Customs Cooperation and Transit. The proposed sub-committee could regularly monitor and to identify measures that might directly or indirectly impact cross-border traders. The responsibilities of the sub-committee could include ensuring that State Parties implement policies that enable women to be sufficiently knowledgeable or educated to understand their rights. It could also ensure that border officials provide better treatment and respect for women's human rights.

### **Recognise sexual harassment as a non-tariff barrier.**

A major challenge facing women traders is sexual harassment, and there is a need to recognise sexual harassment as an NTB to enable the development of appropriate national response measures. Presently, through the various RECs, State Parties report on all recognised NTBs and what steps State Parties have undertaken to address NTB. Without explicit recognition of sexual harassment as an NTB, member states have no obligations to regularly collect information on the indicator and report on the same. Hence the responsible national monitoring committee responsible for NTBs should address this gap. Beyond the recognition, the national committee on NTBs should have a woman representative preferably a representative of a women's trade cooperative.

### **Ensure that labour standards are part of future protocols of AfCFTA.**

Consultations with CSOs should be made when negotiating future labour provisions. In part, CSOs can help in monitoring the agreed provisions and can help in improving compliance with existing labour provisions.

Given that AfCFTA agreement has established the National Monitoring Committee as the organ responsible for eliminating NTBs, there is a need to ensure that these **committees have a woman representative**. This could lead to the recognition of the various NTBs that women ICBTs face. As earlier noted, without recognition of specific NTBs, information is collected on the indicators, and State Parties have no requirement to report on the same.

### **Collect age and gender-disaggregated data on informal cross border trade.**

The AfCFTA should push for collecting age and gender-disaggregated data on informal cross border trade. The failure to collect data on informal cross-border trade implies that the activities of women traders will remain under-appreciated. As provided for under Article 27 of AfCFTA relating to technical assistance, capacity building and cooperation, the AfCFTA Secretariat should support the development of standardized tools that can capture age and gender-responsive information. Furthermore, gender-responsive data collection can be instrumental in the negotiation of future protocols.

### **Develop an AfCFTA gender policy**

The AfCFTA Secretariat should develop a gender policy similar to existing policies developed by several RECs, e.g. COMESA, EAC and SADC. Such a policy should identify gender concerns in trade and provide

appropriate policy measures to address gender-related policy and regulatory gaps in trade. Also, such a policy should support the mainstreaming of gender in various aspects of regional trade and the harmonization of pre-existing RECs gender policies.

#### **Develop minimum standards for one-stop border posts**

The AfCFTA Secretariat should stipulate what minimum infrastructure should be established at the OSBP. For example, trade information desks—that provide information on trade procedures, mediate on minor misunderstanding at the border and assist in filling the custom documents—should at the very least be part of OSBP.

#### **Harmonise existing trade agreements with the AfCFTA**

Prior to the AfCFTA, the continent established several trade agreements with some State Parties subscribing to multiple trade agreement simultaneously. Some trade agreements have cabinet-level representation among State Parties e.g. the EAC. There is a need to harmonise existing trade agreements such that State Parties are not compelled to choose which agreement to enforce and with which other countries. This can be undertaken by assessing the pros and cons of the existing RECs trade agreements and work towards improving the provisions under the AfCFTA for the betterment of the agreement throughout the continent.

### **b. Regional Economic Communities**

#### **Harmonise and popularise cross-border trade charters and codes of conducts**

To address the rampant sexual harassment, RECs must harmonise and popularise the Charter for cross-Border Trade in Goods and Services. For RECs with charters, these charters typically provide the codes of conduct at the border crossing and can be used by informal traders to hold border

officials accountable. These charters target sexual harassment, discrimination and ensure transparent fees and documentation. The Charters also encourage the availability and clear display of identification as a means of reducing exploitation. There are examples of such charters already in operation. For instance, in 2017, the EAC countries established the Charter for Cross Border Trades which outlines the obligations of traders and border officials in the 6 EAC countries. Similarly, COMESA has a charter that stipulates the expected minimum standards for the treatment of informal cross border trades. The Charter explicitly states that *“All individuals shall be able to cross the border without verbal or physical abuse or harassment, including but not limited to sexual and gender-based violence”*.

#### **Implement the Simplified Trade Regime**

Reduce ambiguities in border procedures by adopting and implementing a simplified trade regime. There is an urgent need to establish a preferential trade regime for small scale traders through a continental STR. The AfCFTA's STR can be modelled along the lines of current COMESA STR. Implementation of the simplified trade regimes by all State Parties to make trade by women informal cross border traders easier and less costly.

#### **Fund nationwide birth registration to address child trafficking**

Fund nationwide birth registration. Several African countries have legal frameworks that make it mandatory to register births, but actual funding for birth registration activities is insufficient. The lack of birth certificates complicates measures to address child marriage as well as child trafficking across borders.

**Beyond birth certificates, there is a need to establish standards for identifying potential victims of trafficking especially children.** It is worth recognising that several children

attend school across borders without any documentation. However, the requirement should be that children can only cross borders to attend school in a uniform to ease identification. Additionally, there is a need to establish some form of registration facility between the school and border officials. There are existing examples where such measures are in place. As earlier mentioned, in Rwanda—which is more structured there is a specific pass signed by both parents which must be shown to allow a child to cross the border. This is partly why the establishment of day-care centres is critical for Rwanda's border crossings due to the strict enforcement of any informal migration.

### c. State Parties

#### **Establish infrastructure at border crossing appropriate for women**

There is a need to provide funding to establish the necessary infrastructure at border crossing appropriate for women. Apart from storage facilities like aggregation centres, ICBTs traders require suitable sanitation facilities as well as day-care centres. Sanitation facilities need to be separate for women and men and should consider the volume of daily border crossing. Day-care centres would offer an opportunity for women traders to leave their kids behind while crossing borders and reduce the threat of child trafficking. Nonetheless, traditional concerns of leaving children among strangers remain and is a sensitive issue—both socially and economically among African communities. As such, child-care is a complex undertaking and may require more than just providing a physical space like other kinds of infrastructure. Hence the design of daycare centres should address such cultural and health aspects of child-care.

#### **Ensure a gender balance for border personnel.**

One of the reasons sexual harassment

persists is the limited presence of female personnel at the border whether customs or security officials. As such, there are fewer non-trader women at the border who can offer support with either border procedures or as an avenue to report an infringement on women's rights. Consequently, there is a need to ensure a gender balance in personnel as well as a regular rotation of customs officials at the border to reduce the threat of harassment. Furthermore, State Parties should ensure the availability of a women's desk at a relatively large border crossing.

#### **Decentralise the system of trade certification**

Decentralise the infrastructure for certification away from the nation's capital to increase compliance. Depending on the nature of goods traded, specific permits or certificates are required for one to be authorised to trade. However, most of these permits are usually centrally provided—typically at agencies located in the state capital, and these are often located far away from the border. Having national certification situated at the capital city acts as a hindrance for young women to engage in formal trade, thereby adding to the other constraints women face relating to time poverty and gender roles. The need to travel far away from the home to the capital to acquire permits is costly for women and drives them away from more profitable segments of value chains. As such, there is a need to decentralise the issuance of such permits.

#### **Establish a system of reporting on the implementation of the trade agreement.**

Starting with the ratification of the agreement, State Parties should establish a policy and a system of reporting on the implementation of the trade agreement. The policy should spell out the frequency of reporting as well as any outstanding challenges.

## d. Donors

### **Finance the development e-based platform for monitoring the AfCFTA**

Donors can support the development of technology-based platforms to monitor the implementation of AfCFTA. Such e-platforms can provide the AfCFTA and RECs easy and broad access to the status of implementation of the agreement and offer solutions to address challenges in implementing the agreement. Such a platform would enable State Parties to post their needs, search for solutions, and collaborate or eliminating NTBs, for example. Such solutions are critical for South-South cooperation as State Parties often lack integrated and effective systems to capture, codify, and access knowledge and an open platform to engage with other countries. Furthermore, donors can also support the conduct of regular nation-wide reviews of how State Parties are faring in implementing the agreement. These can be modelled along the lines of the Voluntary National Review (VNRs) that monitor the implementation of SDGs.

### **Support the establishment of infrastructure suitable for women.**

Given that most State Parties operate multiple border crossings, development partners can support national Governments in establishing infrastructure appropriate for women e.g. health posts, crèche, and wash rooms. A significant expansion of such infrastructure would address young women's human rights and also the threat of child border crossing without proper identification.

## e. CSOs

### **Monitor and address child trafficking at border crossings.**

The expanded trade area under the AfCFTA will increase the risk of child trafficking due to little monitoring presently. NGOs can

step in to support national Governments by continuously monitoring potential incidents of trafficking and alerting the necessary authorities. NGOs could also offer shelters for children rescued from trafficking.

## f. Girls

**Use established companies when seeking external employment opportunities.** Given the persistent challenge of unemployment in many African countries, girls and young women will continue to pursue employment opportunities across borders. Fortunately, in the past ten years, several labour firms have been established to support this labour externalization drive. Girls and young women should ensure that they use the services of established firms when migrating and that their movements are officially registered.

### **Report incidents of child trafficking and CSEC.**

Girls and young women should be encouraged to report incidents of trafficking and exploitation anonymously. Several countries operate toll-free national child helplines predominantly used to report incidents of child abuse. Girls and young women should be made aware of the availability of this service which can also be used when one is trafficked or finds herself as a victim of CSEC. These services can be popularised by prominently placing posters at border crossings with necessary telephone numbers.

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7	Ms. Raumnauth Darsheree	Social and Cultural Affairs Officer, COMESA, Zambia
8	Eric Chikukwa	Programme Manager, Zimbabwe Cross Border Association
9	Shungu Matesemwa	Trade Information Officer, COMESA- Zimbabwe Cross Border Association
10	Rosemary Migiro	Programme Manager, : Plan International Kenya
11	Michael Gilere	Programme Manager, Plan International Kenya
12	James Fomba Sunday	Researcher on ICBT, Centre for Economic Research and Capacity Building, Sierra Leone
13	Mr. Wamara Damon	Country Director, Dwelling Places (GAA implementing partner Uganda)
14	Josephine Pedun	Trailblazers Mentoring Foundation
15	Francis Arinaitwe	Restless Development Uganda (GAA Implementing Partner)
16	Akankwaasa Miria	Chairperson Katuna (Rwanda) Women Cross Border Trade Cooperative
17	Yomiima Samiira	Chairperson Nimule (South Sudan) Women Cross border Traders Association
18	Angwanga Dinah	Chairperson Malaba (Kenya) Women cross border traders cooperative
19	Mariam BABU	Chairperson Busia (Uganda) Women's Cross Border Cooperative
20	Ms. Benuza Jane	Chairperson Mutukula (Uganda) Women Cross Border Traders Cooperative
21	Annet Auma	Information Officer, Women Cross Border Trader Resource Desk, Busia (Uganda)
22	Phiona Namazzi	Rahab Uganda
23	Former child trafficking victim	Beneficiary of Rehab Uganda rescue
24	Female Cross Border Trader 1	A member of the Zimbabwe Cross Border Traders Zimbabwe
25	Female Cross Border Trader 2	A member of the Zimbabwe Cross Border Traders Zimbabwe
26	Female Cross Border Trader 3	A member of the Zimbabwe Cross Border Traders Zimbabwe



