THE AFRICAN APPROACH TO REGIONAL INTEGRATION AND MIGRATION

A study prepared by the Scalabrini Institute for Human Mobility in Africa (SIHMA)

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LIST OF ABBREVIATIONS

AMU	Arab Maghreb Union
AU	African Union
CEN-SAD	Community of Sahel Saharan States
CFTA	Continental Free Trade Area
COMESA	Common Market for the Intergovernmental Community on Development
EAC	East African Community
ECCAS	Eastern and Southern Africa the Economic Community of Central African States
ECOWAS	Economic Community of West African States
FLS	Frontline States
FMP	Free Movement of Persons
IGAD	Inter-Governmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
IOs	International Organizations
IOM	International Organization for Migration
LMPF	Labour Migration Policy Framework
MIDSA	Migration Dialogue for Southern Africa
MIDWA	Migration Dialogue for West Africa
OAU	Organization of African Unity
RCP	Regular Regional Consultative Processes on Migration
RECs	Regional Economic Communities
RMCC	Regular Regional Migration Coordination Committee
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
UNHCR	United Nations High Commissioner for Refugees

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1 INTRODUCTION

Currently, Regional Economic Communities (RECs) in Africa are at different levels of implementing the 1991 Abuja Treaty, which lays the foundation for the eventual establishment of an African Common Market and the removal of obstacles to the free movement of people (FMP). Where integration in the areas of trade, goods and services has since advanced, integration through FMP in Africa has not made much progress due to the lack of requisite policy and political will.

The work on free movement, as elaborated in the Abuja Treaty, was discussed at the conference of African Intellectuals held in Dakar, Senegal, in 2004 and at the Ministerial Conference of African Ministers in charge of migration held in Tripoli, Libya in 2005. Furthermore, the Agenda 2063, adopted by the African Union (AU) in 2015, offers a new road map towards ambitious continental aspirations such as the development of an African passport by 2018, a free movement of persons' regime and a continental free trade area (CFTA).

In this regard, the envisaged Protocol Free Movement of Persons, Right of Residence and Right of Establishment seeks to facilitate free movement of persons on the continent through a progressive harmonisation of the different national and regional policies in the area of visa regimes, residence permits and right to establishment. Such progressive steps towards a more regional integration are positively seen by European governments; for example, the outcome of the 2015 Valetta Summit showed the readiness of European countries to support a free movement regime in Africa, as this would ease the movement of Africans in Africa, encourage legal migration and help curb irregular flows towards Europe.

This report aims to bring to the fore the extent of the migration patterns within four regional RECs in the Sub-Saharan region, namely the Economic Community of West African States (ECOWAS), the East African Community (EAC), the Southern African Development Community (SADC) and the Intergovernmental Authority on Development (IGAD). Moreover, the study seeks to understand both positive and negative social impacts of regional integration agreements for the mobility of people in Africa. Finally, the report highlights the challenges and opportunities of freeing the movement of people in Africa, outlining the different constraints to the ratification and implementation of the various free movement protocols. Some policy recommendations for the governance of regional and continental migration in Africa are provided in the last section of the study.

2 BACKGROUND

The history of Africa and its people can never be completely told without the story of migration. Migration of persons, families and groups across the African continent has played a leading role not just in advancing the livelihood strategies of the different people who inhabited the continent, but also in the process of empire building, state formation and the evolution of the present forms of nation-states (Agyeman & Setrana, 2014). Migration was also key in promoting interaction amongst the different tribes and ethnic groups and facilitated the building of social, political and economic relationships across the African continent.

However, colonialism and post-independence events reshaped the entire migration scenario on the continent. Colonialism also led to the collapse of long-distance trade by Africans, which was the practice long before European expansion into Africa. The arbitrary introduction of state borders led to single ethnic groups and tribes that used to constitute single political units being separated into different states or several political units. Moreover, the colonial administration controlled patterns of migration movements on the continent in order to satisfy its political and economic interests. Colonial economic activities, such as mining, plantation farms and construction, were backed by large scale migration movements, particularly from the rural communities in the hinterlands towards these sites. Urbanisation was also key in the reshaping of the migration system on the continent.

Post-independence events also introduced new dynamics in the African migration system. The newly independent states, to a large extent, maintained the colonial administrative structures and laws governing them, while the political and economic crises that developed from the beginning of the 1960s led to growing patterns of forced migration on the continent.

From the 1960s, the newly independent African states embarked on several projects to form regional and continental unions to back their political independence as well as boost economic development and political cooperation between African states. From the beginning, however, the African approach to integration took two key ideological directions. On the one hand, Kwame Nkrumah and his followers' pan-African stance led them to opt for a federation of African states as the appropriate model of integration. Nkrumah pioneered a universalist African citizenship based on African common ancestry, and the need to unite as a people in order to meet the challenge of colonisation. In 1961, Nkrumah, together with Sekou Toure of Guinea and Modibo Keita of Mali, took steps to form the first political union. Their goal was to unify all political institutions, including armed forces of their respective countries. Egypt, Morocco and the transitional government of Algeria later joined this union to constitute what came to be known as the Casablanca bloc (Badejo, 2008). Had this form of political federation survived, it would have meant free movement of nationals between African states.

However, a more nationalist stance championed by Leopold Senghor of Senegal and his followers, opposed a federation. Instead, they supported a functionalist approach of gradual integration based on need and international cooperation in matters relating to the economy. They, therefore, supported the establishment of RECs rather than a continental federation. This group constituted the Monrovian bloc; newly independent Francophone African countries, Liberia, Nigeria and Ethiopia leaned towards this group.

These differences finally culminated in the formation of the Organization of African Unity (OAU), a continental union of all independent African states. This was interpreted as a defeat of Nkrumah's original proposal for a single African state (Legum, 1965). Instead, several regional economic blocs started to emerge alongside the OAU, particularly from the 1970s. In West Africa, they included the Mano River Union (1973), the West African Monetary Union (1972), the Economic Community of West African States (1975) and the West African Economic and Monetary Union (1994). Those that developed in East Africa were the East African Common Services Organisation (1967) and later the East African Community (1999). In Southern Africa, first the Frontline States emerged, followed by the Southern African Development Coordinating Conference (1980) and, finally, the SADC in 1992. Each of these regional blocs was established by its own treaty and, because of the premium they placed on regional trade and economic cooperation, migration matters featured prominently in these treaties and subsequent legislations.

From the 1990s, the OAU and many of these regional unions went through major reforms. Starting from the 1991 Abuja Treaty, reforms in the OAU (rebranded as the AU since 2002), sought to integrate the RECs in its structure. Today, eight of the RECs constitute the pillars of the AU. They include ECOWAS, the EAC, the SADC the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), IGAD, the Arab Maghreb Union (AMU) and the Community of Sahel Saharan States (CEN-SAD). They are meant to assist the AU to achieve its economic development agenda for the continent. While these regional blocs are independent bodies, many of their economic and migration policies are guided by the general policy direction of the AU.

3 REGIONAL INTEGRATION AND MIGRATION PATTERNS IN AFRICA

3.1 Migration within ECOWAS

Migration trends and patterns within ECOWAS were shaped by pre-colonial, colonial and post-colonial institutions and policies, networks and systems. Traditionally, ECOWAS migration trends have been characterised by intra-regional trade movements: nomadic movements along the savannah zone, north-south seasonal or permanent labour movements from the inland Sahel area to the coastal zones, movements of fisher folk along the Atlantic Ocean in the Gulf of Guinea and refugee movements due to conflicts and human trafficking (Adepoju, 2004). Migration during the pre-colonial period was characterised by the trans-Saharan trade, which connected West Africa to North Africa, movements of tribes to new lands through conquests or peaceful settlements and the wandering of transhumant herders[1] along the savannah zone (de Haas, 2007). These movements, as already pointed out, were motivated by political, economic and sociocultural factors.

The period of European domination also brought with it new migration trends and patterns. First and foremost, the trans-Atlantic slave trade uprooted over 12 million West Africans from the African soil and transported them to farm lands in Asia, Europe, the Americas and the Caribbean Islands. Additionally, colonial cash crop plantations along the coastal belt, construction works and the growth of cities like Abidjan, Accra, Cotonou, Dakar, Ibadan, Kano, Kumasi and Lagos determined the migration patterns during the colonial period. Other factors such as organised labour recruitment, taxes and expropriation of land for agriculture and mining by the colonial administration also triggered large-scale migration movement within the sub-region. Most West African labour migrants during the colonial period and the early years of independence went to the cocoa and coffee farms and the mining areas in Ghana and Ivory Coast. In 1960, migrants composed 12.3% of the Ghanaian population, and they made up 17% of the Ivorian population in 1965. The main sending countries were Togo and Nigeria (mainly to Ghana), Burkina Faso and Guinea (mainly to Ivory Coast) and Niger and Mali (to both Ghana and Ivory Coast) (Bakewell & de Haas, 2007).

After 1965, Ghana turned from a major migrant receiving country to a major migrant sending country. The reversal was a consequence of the increasing balance of payment deficits, growing unemployment rates and the political and social malaise. The Aliens Compliance Order issued by the Busia Government in 1970 also led to the expulsion of West African immigrants, particularly Nigerians and Togolese, from Ghana. By 1970, Ghanaians were travelling in large numbers to other West African countries in search of jobs. Their main destinations were Ivory Coast and Nigeria. During the period under consideration, Ghanaian

professionals, including teachers, medical doctors, administrators, architects and lawyers, emigrated (with some of them invited) to newly independent countries such as Nigeria, Uganda, Botswana and Zambia, to assist in national development. Ghanaian professionals also served in public services in Gambia and Sierra Leone (Agyeman & Setrana, 2014; Anarfi et al., 2000).

Due to the boom in oil prices in the 1970s and the decline of Ghana's economy, Nigeria took Ghana's place and joined Ivory Coast to become one of the major migrant receiving countries in the region. It is estimated that in the early 1980s about 300 Ghanaians migrated to Nigeria daily (Agyeman & Setrana, 2014). More than 1.5 million Ghanaians were living in Nigeria before they were expelled in 1983. Since the 1980s, Nigeria has returned to its former status and joined Ghana as a major migrant sending country in the West African sub-region.

Ivory Coast remained a major destination area for West African migrants until the end of Félix Houphouët-Boigny's rule in 1993. Due to the short supply of a domestic labour force, immigrants from other West African countries, in particular Burkina Faso, Mali, Liberia, Senegal, Ghana and Nigeria, were hired in the agricultural and service sectors to do menial jobs that the local population despised. In 1994, immigrants made up about 4 million of the Ivorian total population of 14 million and the majority of immigrants were from neighbouring West African countries. The political conflicts that Ivory Coast suffered after Houphouët-Boigny's régime, namely the two coup d'états in 1999 and 2001 and a civil war between 2002 and 2007, triggered refugee flows to other neighbouring countries and the forced return of its immigrants who had long resided in the country. Refugee movements also marked the migration system in the sub-region. Ethnic and tribal conflicts, as well as politically generated civil wars, sparked repeated refugees flows within the sub-region (Nnoli, 1999). The Liberian civil war that began in 1989 sent more than 1 million refugees to the neighbouring Ivory Coast, Guinea, Ghana and Nigeria. The bloody war of Sierra Leone in 1991 also sparked refugee flows in the sub-region. The political depression in Togo, particularly during Ayadema's regime and the Ivorian civil strife, also dispersed refugees in the sub-region.

Within ECOWAS, irregular movements of people are common due to porous borders and inter-ethnic and inter-tribal networks across national borders. During times of elections, there are concerns of nationals of neighbouring countries interfering in the voting process. This has led to temporary closures of borders during election times. Additionally, ECOWAS citizens have a tendency to overstay and do business in the territory of another member country without soliciting the required permit. However, irregular migration is generally not of great concern to ECOWAS member states, as migration within the sub-region is generally not viewed as posing a security threat despite the persistent terrorist acts by Boko Haram

in Nigeria. In more recent years, however, incidents of human trafficking have grown within ECOWAS and an increasing number of young women are smuggled to the Gulf countries from this region, where they are pushed into all forms of forced labour and sexual exploitation. This has become of great concern to the regional body. Today, the major host countries for the region's migrants continue to be Ivory Coast, Ghana, Nigeria and Senegal, while the major sending countries remain those in the in-land Sahel, including Mali, Niger and Burkina Faso, as well as states along the coastal belt such as Liberia, Sierra Leone, Gambia, Togo, Guinea Bissau and Benin, which have all suffered some form of civil strife and political dictatorship in recent years.

Due to the general worsening of the political and the socio-economic conditions and lack of alternative destinations within the sub-region, migrants from ECOWAS have diversified their destinations. Libya and post-apartheid South Africa, as well as Gabon and Botswana, have been some of their preferred destinations. However, since the 1980s, extra-continental migrations have also intensified. Migrants from Ghana, Nigeria, Senegal and Mali constitute the leading sub-Saharan migrant groups in Western Europe and North America. This type of migration is comprised of highly qualified personnel, particularly health workers to the UK and US, and relatively low-skilled workers who are normally absorbed by the informal economies in Southern Europe, particularly Italy and Spain (Thorsen, 2017; Agyeman & Setrana, 2014).

3.2 Migration within the EAC

Migration within the EAC and indeed the entire sub-region is animated by economic factors, adverse ecological and climatic conditions, politically-induced armed conflicts, civil strife, refugee movements, as well as traditional nomadic movements and trade networks. Like in the case of ECOWAS, pre-colonial, colonial and post-colonial structures and events have shaped contemporary migration patterns and trends within this sub-region.

Traditionally, the region's labour migrants go mainly to the sisal, tea and coffee plantations in Tanzania, the sugar and tea estates in Kenya and the cotton plantations in Uganda. Burundi, Rwanda and other non-EAC member countries such as Mozambique and the countries in the Horn of Africa (namely Eritrea, Ethiopia, Djibouti and Somalia) are the major sending countries. Tanzania and Kenya are the major receiving countries, whereas Uganda remains both a sending and a receiving country. However, the migration geography in the region keeps changing due to post-independence armed conflicts and the inclusion of South Sudan, Burundi and Rwanda into the EAC. Since independence, the East African states, with the exception of Kenya and Tanzania, have been ravaged by civil wars, and this situation has sparked massive refugee flows and exchange across the international borders within the

sub-region. In fact, forced migration associated with armed conflict characterises this region more than any other region on the African continent (Bakewell & De Haas, 2007). According to the UNHCR (2016), of the 18 million people of concern[2] in Sub-Saharan Africa, nearly 10 million reside in the East and Horn of Africa regions.

Additionally, because international borders within the region intersect ethnic boundaries, like in the rest of Africa, undocumented border crossing by people of the same tribe and ethnic groups located in different countries also forms part of the region's migration system (Spaan & van Moppes, 2006). According to Aderanti Adepoju (2008), a well-known African scholar, a common language factor, shared cultural affinity, the colonial experience and the recently resuscitated East African Economic Community have facilitated migration within the region, particularly between Kenya, Uganda and Tanzania.

3.3 Migration within the SADC

The predominant type of migration in the Southern African sub-region, as compared to the rest of the sub-regions in Sub-Saharan Africa, is labour migration. Since the 19th century, South Africa has recruited cheap labour from neighbouring countries for its mining, farming and service sectors. Between 1940 and 1980 national and private recruitment agencies recruited an estimated 1.5 million labour migrants from neighbouring countries such as Malawi, Lesotho, Angola, Mozambique and Swaziland to the South African mines and plantation farms. During the decade of 1990–2000 the South African official recruitment channel, under the Employment Bureau of Africa (TEBA), recruited a total of 1.7 million labour migrants from neighbouring Botswana, Mozambique, Lesotho and Swaziland (Spaan & van Moppes, 2006). These international labour migrants were recruited on a seasonal basis.

Despite the high unemployment rate in South Africa, the country still remains the destination place of international migrants. For instance, since the 1990s, post-apartheid South Africa has attracted highly qualified professionals and unskilled labour migrants from the Democratic Republic of Congo (DRC), Ghana, Zambia, Uganda, Zimbabwe, Nigeria and Kenya, as well as migrants from OECD countries such as Italy, the United Kingdom and Germany, and Asian countries such as India, Pakistan and China. However, the Southern African countries, particularly South Africa, have also faced the problem of brain drain. Large numbers of highly qualified professionals have left South Africa and the other Southern African countries to seek greener pastures in Europe, Asia and North America.

3.4 Migration within IGAD

Migration within IGAD, particularly from the Horn of Africa, is characterised by forced displacement as a result of man-made disasters caused by protracted armed conflicts and natural disasters caused by drought and climate change. Therefore, the type of migrants that this region generates includes refugees, displaced persons, and labour migrants who normally use land and sea routes during the process of migration. This region is also an important transit point for migrants from other regions of Africa or Asia destined to Southern Europe and the Middle East. So far, three transit corridors or routes have been identified. They include:

a. **The East African route:** this is a land route that heads north to Italy and Malta via Sudan, Libya and/or Egypt.
b. **The Gulf of Eden route**: this route connects migrants heading to Yemen from Somalia. They cross the Gulf of Eden via Bossaso and Puntland.
c. **The Red Sea route:** this route is used by migrants destined to Italy, Malta or Yemen. From this region, transit migrants cross the Red Sea and the Suez Canal to Italy or Malta, or from Djibouti they cross to Yemen via Obock (IGAD, 2012).

IGAD membership overlaps some member countries of the EAC and, for that matter, the migration dynamics of these two blocs are interconnected. Because of the nature of migration within IGAD, almost all countries within this sub-region are both places of origin and destination for migrants. Overall, Kenya is the largest destination country for labour migrants and refugees from the conflict affecting IGAD countries such as South Sudan, Somalia and Eritrea. It is also a transit country for undocumented IGAD migrants. Currently, Uganda hosts almost 1 million of IGAD's refugees from South Sudan, but it is also a migrant origin country, with most of its migrants heading towards Kenya. Djibouti is also an important destination for refugees as well as documented and undocumented labour migrants. However, Somalia, Ethiopia and Sudan are origin countries of migrants and refugees who are spread across several regions of the world. South Sudan and Somalia are the largest producers of IDPs in the sub-region due to protracted civil strives. Migrant smuggling and human trafficking also characterise the migration dynamics in this region, particularly movements originating from Ethiopia (IGAD, 2012).

4 MIGRATION POLICIES IN THE AU, ECOWAS, THE EAC, THE SADC AND IGAD

4.1 Migration Policies and Legislations in ECOWAS

ECOWAS is the umbrella of several other integration blocs that exist within West Africa. The idea of a regional economic union was originally conceived by the former president of Liberia, William V.S. Tubman, during the 1950s. At that time, Liberia, Egypt and Ethiopia were the only independent countries on the African continent. Tubman worked tirelessly for the design of the fundamental framework of ECOWAS. He travelled widely within the sub-region to persuade leaders to form a regional union and also played an influential role towards the establishment of continental organisations such as the OAU and the African Development Bank. In 1965, Tubman reached a formal agreement with the leaders of Ivory Coast, Guinea and Sierra Leone and signed the first trade agreement between his country and these three countries.

After Tubman's death in 1971, his successor, President William R. Tolbert Jr., played an instrumental role in the actualisation of the ECOWAS project. In 1973, he led Liberia to create a custom union with Sierra Leone. They called it the Mano River Union. This initiative inspired other West African leaders to take further steps towards the establishment of ECOWAS. In 1972, General Gowen of Nigeria and General Eyadema of Togo re-activated previous efforts by leaders from Liberia. They toured West African states seeking support, and by 1973, several leaders had given consent to the idea. In 1973, the future members of ECOWAS met in the Togolese capital, Lomé, to review the original draft of the treaty establishing ECOWAS. The draft was further reviewed by experts in Accra in the following year, and by foreign ministers of future ECOWAS member states in Liberia in 1975. On the 28th May, 1975, after all fifteen West African states had signed the treaty in Lagos, ECOWAS was formally established. The principal objective of the union is found in Article 3 of the Revised Treaty; it is "to promote cooperation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among member States and contribute to the progress and development of the African Continent."

Within ECOWAS, the key legislations and policy instruments for migration management include the 1979 Protocol on Free Movement of Persons, Residence and Establishment and four supplementary protocols for its implementation as follows:

1. The 1985 Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment;
2. The 1986 Supplementary Protocol on the Second Phase (Right of Residence);
3. The 1989 Supplementary Protocol Amending and Complementing the Provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment; and
4. The 1990 Supplementary Protocol on the Implementation of the Third Phase (Right of Establishment).

The objective of the 1979 Protocol was to abolish all obstacles to free movement within the sub-region. It envisaged a progressive achievement of full implementation of the protocol over a fifteen year period in three phases, namely:

- Phase I: Right of entry
- Phase II: Right of residence
- Phase III: Right of establishment

Phase I abolished the requirement of visas for member states' citizens who could enter any other member country for a period of 90 days on possession of a valid travel document and an international health certificate. Any member state could, however, deny entry to a person characterised as 'inadmissible' under its laws. Phase II of the protocol, which is the right of residence, means a citizen who is a national of any member state has the right to reside in another member state other than his/her state of origin, which issues him/her with a residence card or permit that may or may not allow him/her to hold employment. The 1986 Supplementary Protocol stipulated the harmonisation of national policies for the issuance of the residence cards and prohibited mass expulsion of Community citizens by any member country. The implementation of Phase II of the protocol suffered delays before it came into force in 1986. This was mainly as a result of Nigeria's expulsion of over 2 million 'illegal migrants,' mainly Ghanaian citizens, in 1983 and 1985, due to economic recession. This brought a crisis of confidence to the organisation. Phase III of the protocol, which is the right of establishment, means the right of nationals of ECOWAS member states to establish in another country other than his/her country of origin and to have access to economic activities under the conditions defined by the legislations of the host member state for its nationals. The 1990 Supplementary Protocol A/SP.2/5/90 on the Implementation of Phase III (Right of Establishment) is meant for the smooth implementation of this phase. It defines the right of residence, emphasises non-discriminatory treatment of nationals and companies of other member states, except as justified by exigencies of public order, security or health. It forbids the confiscation or expropriation of assets or capital on a discriminatory basis and requires fair and equitable compensation where such confiscation or expropriation is to take place on justifiable grounds (Bolarinwa, 2015).

4.1.1   The ECOWAS Passport and Brown Card

To facilitate free movement within the sub-region, some member countries of ECOWAS have adopted a common passport. Additionally, the ECOWAS Brown Card is also in use within the sub-region to facilitate the international movement of commercial vehicles within the sub-region by catering for victims of motor accidents caused by resident ECOWAS citizens.

4.1.2   The ECOWAS FMP Directorate

In recent times, ECOWAS has made several steps in the restructuring of its institutions to ensure the full implementation of the migration protocols and policies. In 2008, following the adoption of the ECOWAS Common Approach to Migration, a Free Movement of Persons (FMP) Directorate was created. This directorate operates under the ECOWAS Commission and is charged with the responsibility of monitoring member countries and providing education and advice leading to the full enforcement of the ECOWAS Protocol on Free Movement and Establishment. The directorate has three main divisions. These include the Cross-Border Cooperation unit, the Migration and Free Movement unit and the Tourism unit. Broadly, the function of the directorate includes the following:

- The implementation of the Free Movement Protocols by member states;
- The promotion of compliance with the ECOWAS Common Approach to Migration
- Strengthening cross-border cooperation and
- Monitoring and management of migration across the sub-region.

4.1.3   The ECOWAS Humanitarian and Social Affairs Directorate

The Humanitarian and Social Affairs Directorate of ECOWAS also plays a key role in facilitating human mobility across the region. Issues associated with labour migration, human trafficking and forced mobility are dealt with by this directorate. The Social Affairs division of this directorate has the mandate to oversee the implementation of the ECOWAS Labour and Employment Policy by member states. Specifically, it has the responsibility of promoting the rights of migrant workers in the community, encouraging bilateral and multilateral cooperation on labour migration among member states and facilitating the geographical and occupational mobility of persons within the sub-region.

4.1.4   Other Initiatives

ECOWAS has also adopted several policies to manage migration within the sub-region. These include the ECOWAS Common Approach to Migration, adopted at the 33rd ordinary Session of the Heads of State and Government in Ouagadougou on January 18, 2008. This policy document, among other issues, addresses irregular migration; actions for combating human trafficking; harmonisation of member states' migration policies; protection of the right of migrants, asylum seekers and refugees; as well as actions plans for migration and development related issues.

4.1.5   Assessment of the ECOWAS Approach to Regional Migration

ECOWAS has made significant progress in enforcing FMP compared to other regional blocs in Africa. Phase I of the ECOWAS Protocol on Free Movement and Establishment, which concerns the right of entry without visa for a stay of up 90 days, has been implemented by all member states. In addition, ECOWAS member states have implemented additional measures to facilitate free movement within the Community. These include the ECOWAS Travel Certificate for commercial vehicles, the harmonised Immigration and Emigration Form and the ECOWAS passport, which have been adopted by many member countries.

4.1.6   Challenges of Free Movement in ECOWAS

In spite of the progress ECOWAS has made in facilitating free movement across the sub-region, there are a number of areas in which challenges still exist. The sub-regional bloc is facing difficulties in operationalising phases II and III of the ECOWAS Free Movement Protocol. Since the adoption of the ECOWAS texts on Free Movement of 1979, ECOWAS has adopted additional instruments to ensure renewed emphasis on the concept of 'citizenship'. The recent decision and adoption of the ECOWAS National Biometric Identity Card for intra-regional mobility, and the removal of residence permit requirements for ECOWAS migrants in territories of member states, is a conscious effort by the community leaders to strengthen the integration agenda of the region. The right of establishment remains sacrosanct and the regime is envisioned to encourage talent mobility, skills' acquisition and the spread of competences in the region.

Lack of adequate funding and the shortfalls in migration data collection and management still remain a challenge. The data collection is impeded by lack of connectivity, coordination and identification of focal persons and institutions. However, the Migration Dialogue for West Africa (MIDWA) thematic working group is making efforts to strengthen migration data collection amongst member states. The regional bloc lacks adequate mechanisms and structures to control irregular migration and cross-border activities of criminal groups across the sub-region. This lacuna is exploited by individuals and groups to perpetrate cross-border criminal activities such as irregular migration, human trafficking, cross-border internet fraud, money laundering and kidnapping, which pose some of the threats to free movement in the sub-region. For example, activities of the terrorist group Boko Haram are difficult to control because they operate from different countries. Because of this situation and due to the lack of peace and stability in several areas of the region, ECOWAS member states have border patrol units that control their borders in spite of the existence of the free movement protocol. In order to overcome these challenges, ECOWAS has taken the following actions:

a. Institutionalise the Heads of Immigration forum to address issues related to migration;
b. Establish a task force consisting of identified member states that will be posted at ECOWAS external borders;
c. Work with ECOWAS development partners to build capacities of operatives and critical stakeholders in management of migration;
d. Encourage coordination and sharing of information on irregular migration activities in the region;
e. Re-invigorate the Regional Consultative Process, MIDWA, to address various thematic areas of migration concerns in the region.

Another challenge to free movement within ECOWAS is the continuous existence of numerous border posts and checkpoints along borders of ECOWAS member states. There are also widespread reports of corruption, harassment and torture of travellers and traders by border officials at these checkpoints, which pose a serious threat to free movement. Furthermore, in spite of the existence of the free movement protocol for more than three decades, several ECOWAS member states have not harmonised their national laws and migration policies. The FMP Directorate is expected to address this issue; however, it will require significant political will from national governments if it is to succeed.

In order to facilitate free movement of labour across the sub-region, there is a need for regional accreditation of educational certificates. However, in spite of the existence of colonial regional examination councils, like the West African Examination Council that oversees exams, member states complain of different standards and, thus, continue to not recognise academic certificates from other ECOWAS countries. Moreover, ECOWAS member countries intend to protect their labour markets and preserve them exclusively for nationals. This is largely due to high unemployment rates in countries such as Ghana, Nigeria and Ivory Coast, which also happen to be the principal destinations of the region's migrants.

4.2 Migration Policies and Legislations in the EAC

Regional integration in East Africa, particularly between Kenya, Uganda and Tanzania, has a long history dating back to 1917 when Kenya and Uganda entered into a custom union, which Tanganyika (Tanzania) later joined in 1927. In 1967, the three countries formed the East African Common Services Organisation, which culminated in the establishment of the EAC. However, due to ideological differences between the political leaders at the time, particularly Idi Amin of Uganda and Julius Nyerere of Tanzania, the organisation dissolved in 1977. The dream of integration was kept alive and re-launched in 1984 when Kenya, Uganda and Tanzania negotiated and signed a mediation agreement for division of assets and liabilities among member states. In addition, the three countries agreed to explore areas of future co-operation and make concrete arrangements for such co-operation.

The turn-around at regional integration began in 1994 with the establishment of the Permanent Tripartite Commission for East African Co-operation by Kenya, Uganda and Tanzania. To consolidate the regional co-operation and integration efforts, the East African Heads of State, at their 2nd Summit in Arusha in April 1997, directed the Permanent Tripartite Commission to begin the process leading to the drafting of a treaty for the establishment of the EAC. The Treaty was successfully completed in Arusha in November 1999 and entered into force in July 2000 following the conclusion of the process of its ratification by the initial three member states. Upon the entry into force of the treaty, the EAC came into being. In June 2007, the Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty and gained full

membership status on the 1st of July, 2007. The last member to join the Community was South Sudan, which was admitted in 2016. The headquarters of the Community is in Arusha, Tanzania. The objective of the organisation is spelt out in Article 5(1) of the treaty, which notes that the treaty "shall be to develop policies and programmes aimed at widening and deepening cooperation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs for their mutual benefit." Steps taken to achieve these objectives constitute the four pillars of the Community, which include: custom union (achieved); common market (achieved); monetary union and a political federation.

Migration matters within the sub-region are addressed under the common market provisions. The legal instruments for the regulation of migration within this sub-region are enshrined in the Article 104(2) of the treaty. In this provision, member states agreed to adopt measures towards achieving free movement of persons and labour as well as guaranteeing the right of establishment and residence of citizens of member states within the Community. For this reason, member states adopted the Common Market Protocol in November 2009, which came into force in July 2010. The principal objective of the protocol is to "to widen and deepen cooperation among the partner states in economic and social fields through removal of restrictions on the movement of goods, persons, labour, services and capital and the rights of establishment and residence" (Martin, 2012: 5). The protocol guarantees freedom of movement to all factors of production and two rights. These freedoms and rights include:

1. Free Movement of Goods;
2. Free Movement of Persons;
3. Free Movement of Labour/Workers;
   a. Right of Establishment;
   b. Right of Residence;
4. Free Movement of Services;
5. Free Movement of Capital.

Part D (Articles 7-12) of the protocol provides the provisions for the free movement of persons and labour within the sub-region while Part E (Articles 13-15) deals with the rights of residence and establishment for citizens of member states of the Community. Free movement is understood as "the entry of citizens of the other Partner States into the territory of the Partner States without a visa" (Article 7(2a)). In addition, member states are required by the protocol to adopt a standardised identification system for citizens, allow the free movement of labour under fair conditions, as well as harmonise and mutually recognise academic institutions and certificates, labour laws, policies and programmes. The rights of establishment and residence as stipulated in the protocol enjoin citizens the right to establish and pursue economic activities as self-employed persons and to bring one's family members to the country of residence other than one's own country of origin.

4.2.1 Assessment of the EAC Approach to Regional Migration

In recent years, the EAC has made rapid gains with respect to FMP across the sub-region. Because the idea of integration in the EAC hinges on the principle of common market and federation, urgent steps have been taken to promote free movement. This includes a regional migration protocol that has been fully ratified by member states, the introduction of a regional passport and a variety of choices that are offered to EAC citizens willing to migrate to another EAC member country (SEF, 2016).

In order to ensure the smooth operationalisation of the EAC common market policy, four underlying principles are envisaged in the Protocol. These include: non-discrimination of nationals of other partner states on grounds of nationality; equal treatment to nationals of other partner states; transparency in matters concerning the other partner states; and sharing information for the smooth implementation of the protocol. In addition, 'third generation' identity cards have been introduced to nationals of the Community. These cards are supposed to identify the holder as a dual citizen of their home country and of East Africa. Some of the countries have already issued these cards to their citizens. In addition, effort is being made to ensure that higher educational institutions within the Community and their certificates are mutually accredited and recognised by member states. There are also steps to harmonise social security benefits across countries in the Community.

4.2.2 Challenges to Free Movement in the EAC

The EAC faces challenges with the implementation of policies. For example, some member states have been struggling to fully implement the free movement protocol years after they have ratified it.

In fact, even today, not all EAC member countries are in favour of all the provisions of the protocol. Moreover, there are undue delays in the processing of work permits, while some member countries have yet to harmonise their educational certificates, labour policies and laws in line with the provisions of the protocol due to lack of political commitment (Ogalo, 2012). For example, Tanzania and Burundi are among the countries that have taken measures to protect their local labour market from undue competition by nationals from other EAC countries.

Despite calls for harmonisation of policies, Tanzania and Burundi have yet to ratify the agreement abolishing work permit application fees for EAC nationals, whereas Kenya, Uganda and Rwanda have done so already. In some EAC countries, restrictive domestic labour laws hinder the free movement of workers. Additionally, the EAC free movement of labour agreement favours only a section of the labour market, that is, those who are professionals. Yet, even in this case, it is argued that not all professionals are covered by the legislation (Basnett, 2013). A study has shown that only the highly skilled professionals are able to move to other Partner States for employment purposes under the provisions of the protocol

(Martin, 2012). However, some EAC countries also struggle to create enough decent jobs for highly qualified professionals who are thus forced to migrate to the developed North. In recent times, employers and workers' organisations have joined forces and pressured EAC leaders to do more to remove barriers to FMP.

The economic disparity among member countries within the EAC makes freeing of movement a challenge to some of the member countries. At the same time, however, the regional bloc faces shortages of skilled professionals, and Kenya is the principal industrialised country within the sub-region that has diversity in its exports. On the other hand, Uganda, Rwanda and South Sudan need skilled workers to grow and build the industrial base of their economies. For that reason, making the circulation of workers possible will enhance economic growth within the sub-region.

4.3 Migration Policies and Legislations in the SADC

The SADC was established in 1992 as an intra-regional union of southern African states to advance the interest of the region. It succeeded the Southern African Development Coordination Conference (SADCC), which was founded in 1980 with the goal to reduce the region's dependence on South Africa and support the fight against colonial rule and apartheid. Both organisations had their origin in the anti-colonial movement known as the Frontline States (FLS), which developed during the 1960s in the sub-region. The movement played a key role in the elimination of colonial rule within states in the Southern African sub-region. In May 1979, foreign ministers of the FLS member states met in Gaborone (Botswana) to discuss the possibilities for economic cooperation. A follow-up meeting was held in Arusha (Tanzania) in July of the same year, which recommended the creation of the SADCC to help promote economic cooperation among members states and thus reduce the region's dependence on apartheid South Africa (Dodson & Crush, 2015).

After the end of apartheid rule in South Africa and the independence of Namibia, the SADCC was reconstituted in 1992 to become the SADC. The principal objective of the SADC, as spelt out in Article 5(1) of the SADC Treaty, is to enhance economic development, growth and alleviation of poverty within the SADC; advance common political values, systems and institutions; strengthen and consolidate the historical, social and cultural affinities amongst the people of the region; promote and defend peace and security; as well as achieve a collective self-reliance with a high degree of harmonisation and rationalisation between member states.

The SADC started with nine original member-states: Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. Namibia joined the organisation in 1990 and South Africa became the 11th member to join in 1994. Since then, membership has continued to increase. In 1995, Mauritius joined the organisation, followed by the DRC and the Seychelles. Madagascar became a member in 2005. It was expelled in 2009 after a coup, and was later readmitted.

Moreover, due to high unemployment rates in South Africa, the principal migrant destination country within the sub-region, and the growing level of xenophobia among the citizens towards the migrant population, the regional body is struggling to adopt a common migration policy.

This fact notwithstanding, the creation of a regional economy and freeing the movement of people across the region has been at the heart of SADC from the moment of its inception. In Article 5(2)(d) of the SADC Treaty, it is stated that the organisation shall "develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States." However, despite several initiatives taken in this direction over more than three decades, little progress has been made. Within the SADC, the relevant legal instruments for the management of migration include:

1. Draft Protocol on the Facilitation of Movement of Persons (2005);
2. ADC Protocol on Transport, Communications and Meteorology;
3. SADC Protocol on Firearms, Ammunition and Other Related Materials;
4. SADC Labour Migration Action Plan (2013);
5. SADC Labour Migration Policy Framework (2014);
6. SADC (non-binding) Code on Social Security, adopted in 2008.

The Draft Protocol on the Facilitation of Movement of Persons was first adopted in 2005 under the Organ on Peace, Defence and Security of SADC. It followed a long process dating back to 1993. In July 1993, the first SADC workshop on FMP was organised in the Zimbabwean capital, Harare. The following year, the SADC Council of Ministers gave the approval to constitute a team of consultants to prepare the SADC protocol on free movement. The team submitted the Draft Protocol on the Free Movement of Persons for the SADC sub-region in June 1995. As was the case with ECOWAS, the SADC draft protocol aimed at the achievement of free movement and establishment of citizens of the SADC across the sub-region in phases. The protocol made provision for migrants to reside in any member state and to have the right to seek employment in the country of residence. However, South Africa, Botswana and Namibia opposed some elements in the protocol and, after several revisions, member states agreed on a revised protocol for adoption in 1998. An aspect of the revised draft protocol worth noting is the replacement of the term 'free' with facilitation'.

Therefore, the 2005 revised draft deals with the facilitation of movement of SADC citizens across the sub-region where there will be no visas, but it does not embody the equal access of SADC citizens to the labour markets of the host society. Its overall goal is to "develop policies aimed at the progressive elimination of obstacles to the movement of persons of the Region generally into and within the territories of State Parties." Specifically, the draft protocol is meant to provide SADC citizens the right to free entry (with some limitations) without a visa into another member state, the right to seek permanent and temporary residence and establishment, and access to employment in the host country. It calls for cooperation among member states in matters of migration, the harmonisation of national policies, the introduction of residence permits for Community citizens, the protection of migrants and the procedures for expulsion of a SADC citizen by a member country.

However, the fact that the draft protocol was placed under the Organ on Peace, Defence and Security of SADC, makes migration management within the SADC more of a security issue than an economic matter. This portrays the deep-seated challenge faced by member states in the implementation of free movement across the sub-region. Though this protocol obtained the necessary signatures to be adopted in 2005, it has since lacked the necessary ratification by member states for its full implementation.

In order to address issues regarding the movement of labour migrants across the sub-region, from 2013 onwards, the Employment and Labour Sector of the SADC adopted in successive stages the SADC Labour Migration Action Plan (2013–2015), a Labour Migration Policy Framework (LMPF) and a Protocol on Employment and Labour (2014). The SADC Labour Migration Action Plan and the LMPF require SADC member states to develop a national labour migration policy by 2019. Additionally, according to Article 19 of this protocol, member states have to take steps to protect migrant workers across the sub-region (Landau & Vanyoro, 2016).

In order to facilitate travel across the sub-region for the purpose of economic activities and to control the security challenges in this regard, the SADC has adopted the Protocol on Transport, Communications and Meteorology and the Protocol on Firearms, Ammunition and Other Related Materials. While the former is meant to protect the right of passenger service providers by integrating and simplifying logistical and clearing systems, the latter is meant to improve the monitoring capacity of the security services across the sub-region through information-sharing and capacity-building.

Moreover, over the years, and due to the lack of the necessary ratifications for a regional labour migration policy, SADC member countries have resorted to bilateral agreements and MOUs with partner countries to regulate the migration of people from one country to another. Therefore, within the SADC, single countries continue to have more say regarding migration management to and from their countries.

4.3.1   Assessment of the SADC Approach to Regional Migration

Unlike ECOWAS and the EAC, the SADC is struggling to make FMP across the sub-region a reality. The predicament of the SADC was craftily summed up in a recent report in the following words: "[The] SADC has actively resisted free movement, diluting a protocol initially aiming at free movement and eventually delaying the ratification process, paving the way for the proliferation of bilateral agreements" (SEF, 2016: 16). Indeed, migration is a hot issue within the SADC. Not only has the sub-region diluted the content of its free movement protocol, but since its adoption in 2005, it has still not received sufficient ratifications from member states in order to enter into the implementation stage. South Africa, which hosts a large part of the region's migrants, has been blamed in part for this stalemate (Oucho & Crush, 2001).

In recent years, several organisations, with the backing of the IOM, other UN agencies and other state organisations, are providing support to the SADC in migration matters. The Migration Dialogue for Southern Africa (MIDSA) and Migrating for Work Research Consortium (MiWORC) are two such organisations working to promote free movement in the SADC. They organise expert meetings and provide advice on matters relating to mixed and irregular migration, labour migration and protection of rights of migrants and unaccompanied minors. Yet, there are practical challenges that need to be addressed in order for the region to fully implement its migration policies.

4.3.2   Challenges to Free Movement in the SADC

Historically, human mobility for various reasons has characterised the SADC region. The economies of South Africa, Namibia and Botswana have traditionally depended on migrant labour, and there is a long tradition of migrant recruitment schemes in these countries. However, as Williams (2011) has observed, SADC countries, particularly those that are the principal hosts of migrants, view migration management as primarily of national competency. Therefore, while desiring migrant labour, these countries have traditionally adopted a restrictive and protectionist approach to migration, particularly towards unskilled and semi-skilled migrants. This contrasts with the regional approach, which is largely liberal and open.

The lack of political will to ratify migration policies by SADC member countries is also borne out of the fact that migrant destination countries are uncertain about the potential impact of migration once they open the borders. This is also because there is lack of statistical information and academic research assessing the relevance of migration to the sub-region. As a result, SADC member states are motivated by national interests in pursuing regional migration matters. For example, South Africa views migration primarily as a matter of national security, rather than an economic, social and/or humanitarian issue.

Another challenge in the SADC is the fact that citizens perceive migration as a threat and thus expect their government to be tough on migrants, asylum seekers and refugees (Williams & Carr, 2006). In recent times, there have been several xenophobic attacks in South Africa towards African migrants. Moreover, high unemployment rates in the major destination countries and lack of sufficient institutional structures to control irregular migration make it difficult for member countries to readily open their borders (Dodson & Crush, 2015).

Within the SADC, there is a lack of institutions that ensure that member countries comply with regional migration policies. In fact, states are not obliged to comply with the provisions of the free movement protocol even after they have ratified it. They are rather encouraged to amend national legislations to be able to implement the regional ones in their countries. This level of freedom is one of the main reasons why SADC member countries do not comply with regional migration policies.

4.4 Migration Policies and Legislations in IGAD

IGAD is one of the newest RECs on the African continent. It was established in 1996 to succeed the then Intergovernmental Authority on Drought and Development (IGADD), which was first created in 1986 by countries within the Horn of Africa and around the Great Lakes, namely Djibouti, Ethiopia, Somalia, Sudan, Uganda and Kenya. In 1993, Eritrea joined the organisation after it gained independence while South Sudan, the eighth member, joined in 2011. The creation of IGADD was meant to address specific environmental challenges that the region faced. As a result of the recurring and severe drought in the period between 1974 and 1984, which caused widespread famine and severe economic hardship and threatened the region with desertification, IGADD was formed with the support of the United Nations to address these challenges. In 1996, IGADD was revitalised with new organisational and institutional structures. It was re-branded IGAD with its headquarters based in Djibouti. The objective of IGAD is to promote economic cooperation, combat natural and man-made disasters such as drought, and ensure that there is food security and peace within the sub-region. In order to achieve this, IGAD aims to harmonise member states' policies related to trade, customs, transport, communications, agriculture, and natural resources, as well as to "promote free movement of goods, services, and people within the region.

The issue of migration is one of the key policy areas of IGAD. It features prominently in IGAD's programme of activities, with financial backing from the European Union (EU) due to the nature of this region as a transit zone for Europe-bound migrants and also as a leading refugee origin region in Africa.

Since its establishment, this organisation has not advanced much in terms of developing migration legislations that will lead to FMP across member countries. Nonetheless, in 2012, during the 45th Ordinary Session of the IGAD Council of Regional Ministers meeting in Addis Ababa, a regional migration policy was adopted. This policy document serves as the basis for a regional roadmap for the management of migration across the region. A Consultative Process with IGAD Member States is on-going towards the finalisation, negotiation, adoption, ratification and implementation of the Protocol on Free Movement of Persons in IGAD Region. The consultative process includes the study on Barriers and Benefits to Free Movement; Road Map for Protocol.

The IGAD regional migration policy framework is claimed to be the first of its sort amongst the RECs in Africa, and it takes inspiration from the AU Migration Policy Framework and Berne Initiative on the International Agenda for Migration Management. The policy is meant to be a guide rather than a binding document for member states and its goal is "to foster a process aimed at an explicit migration policy for its Member States, ultimately for the latter to formulate national migration policies (NMPs) that streamline migration management regionally and nationally, respectively" (IGAD, 2012:5). The policy document identifies seven pertinent issues of concern that human mobility across the region generates. They include the effect of spontaneous and uncontrolled movements of people on the stability and security of member states; the need for regional legislation and policies to address the right of migrants in the region; crisis prevention, management and resolution; the interconnection between migration, poverty and conflict in the region; the relationship between migration, climate change and environmental adaptation; migration and gender; and the situation of vulnerable groups in the reality of migration. Under each of these items, a list of recommendations is provided to give policy direction to IGAD member states.

Based on the above realities, the IGAD framework addresses key areas in the region's migration dynamics, which include labour migration; border management; irregular migration; forced displacement; internal migration; migration data; migration and development; inter-state and inter-regional cooperation in matters of migration; as well as social and economic issues such as migration and health, social protection, culture, pastoralism, etc.

In addition, the Heads of Immigration of IGAD member states meet regularly to share information and discuss pertinent issues regarding migration management across the region. The Regular Regional Consultative Processes on Migration (RCP) and the Regular Regional Migration Coordination Committee (RMCC) happen twice a year. The 9th IGAD Regional RCP on Migration was held in Nairobi, Kenya in July 2017 and examined the linkage between climate change and human mobility. Its goal was to create awareness around issues that are related to climate-induced displacements and how to address them. Participants included IGAD member states' Heads of Immigration and Labour, members of academia, UN agencies and civil society organisations (CSOs).

In existence since 2012, the AU-Horn of Africa Initiative against Human Trafficking and Smuggling is an initiative backed by the AU, IGAD and other international bodies to control irregular migration from and within the sub-region. IGAD members also support the Irregular Migration Data System 4Mi (Mixed Migration Monitoring Mechanism Initiative).

4.4.1   Challenges of Migration Management in IGAD

The nature of IGAD is such that its structure and modus operandi is different from that of the other RECs that we have discussed in this work. Primarily, IGAD's goal is to address perennial environmental problems and man-made disasters that the region faces, which have always caused untold hardship on citizens. On matters of migration, one of the primary concerns of IGAD is to cooperate on and address issues of internal displacement and refugee flows. In more recent times, and due to the key migration corridors that some IGAD countries provide for migrants destined to the EU, IGAD as a regional body has received support from Europe and UN agencies to tackle the phenomenon of human trafficking, smuggling and irregular migration. It is in line with this that the regional body adopted a migration policy framework in 2012.

In spite of this, this region faces numerous challenges in its migration management. First and foremost, IGAD does not have any protocol on migration like the other regional bodies considered so far. It is one of the first regional bodies in Africa to adopt a regional migration policy framework in 2012, but as of September 2017, only Uganda and Kenya out of the eight IGAD member countries have actually drafted a national migration policy as demanded by the regional policy framework. Besides, there is little cooperation between IGAD countries with regards to FMP. This is also caused by the fact that IGAD membership overlaps with membership to other regional unions, like the EAC, that are pushing for stronger integration. For example, three of the IGAD member countries – Kenya, Uganda and South Sudan – belong to the EAC and on matters of migration they appear to be more interested in fostering relations with other EAC members than with IGAD.

Another challenge faced by IGAD in matters of FMP is the security threat posed by terrorist groups operating in the region, which have put the success of regional agreements and policies on migration governance at risk. For example, in 2016, Kenya threatened to opt out of regional and international legislations regulating the treatment of migrants and refugees and to close Dadaab Refugee Camp, the world's largest camp with over 350,000 inhabitants, due to a series of terrorist acts perpetrated by Al-Shabab fighters who were suspected to be operating from the camp. As a result, the security challenge that the region faces makes it difficult for member countries to fully commit to the opening of their borders.

5 A GENERAL ASSESSMENT OF THE AFRICAN APPROACH TO REGIONAL MIGRATION

5.1 The OAU-AU Migration Agenda

Reforms in the continental union dating back to the early 1990s have redirected the focus of integration to economic development. The OAU Treaty Establishing the African Economic Community (the Abuja Treaty) that was adopted by the OAU Summit in 1991, laid the foundation for the eventual establishment of an African Common Market and the removal of obstacles to free movement within the continent. In Chapter 6, Article 43 of the treaty, it is stated that:

1. Member states agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively FMP, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community.
2. For this purpose, member states agree to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.

This provision was reaffirmed in the Constitutive Act of the African Union in 2001 and in the AU Agenda 2063. Additionally, since the beginning of the millennium, there have been several policy initiatives within RECs at the AU level and in AU-EU relations, addressing topical migration issues. These major policy initiatives include: the African Common Position on Migration and Development and the Migration Policy Framework for Africa, which were both adopted by the AU Assembly in Banjul in June 2006. Within the AU Migration Policy Framework, the AU Assembly adopted the Joint Labour Migration Programme (JLMP) in 2015, which was aimed at promoting inter-regional mobility of migrant workers.

At the AU's 18th Ordinary Session of the Assembly of Heads of State and Government, held in January 2012, a decision was taken to establish a Continental Free Trade Area (CFTA) by an indicative date of 2017. Furthermore, in 2015, African member states committed to the Agenda 2063, which envisages an integrated African continent and establishes 12 fast-track programmes, one of which is based on the promotion of FMP. Decision EX.CL/Dec. 908 (XXVIII), adopted at the 2016 January Summit of the Executive Council, further affirms commitment to African integration through free movement of people, goods and services.

At its 661st meeting held on 23 February 2017, the Peace and Security Council (PSC) of the AU adopted, at the ministerial level, a (non-binding) decision on Free Movement of People and Goods and its Implications on Peace and Security in Africa.

At the continental level, the adoption of a Protocol on the Free Movement of Persons in Africa is unique as it does not only bind to facilitate entry, residence and establishment of all nationals of AU member states, but it also governs other key issues, including an African passport, the principle of non-discrimination, the mutual recognition of academic and professional qualifications, the protection of property rights and the portability of social security benefits.

In March 2017, the Department of Political Affairs convened an independent experts' meeting in the Seychelles to consider the draft Protocol on Free Movement of Persons in Africa before its submission to AU member states. In October 2017, the Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment was considered for adoption by the Specialised Technical Committee (STC) on migration, refugees and IDPs.

Additionally, over the past ten years, under the auspices of the Joint Africa-EU Strategy (JAES), regional migration dialogues between the EU and the AU have intensified for the purposes of improving cooperation and making well-managed migration a tool for development.

The Intra-Regional Forum on Migration in Africa (IRFMA) also provides a space for inter-regional cooperation on migration and a unique platform for RECs to share information and discuss regional policies for better regional migration governance. Additionally, other international initiatives on migration, including the findings of the Global Forum on Migration and Development series held annually since July 2007, have all informed and given direction to migration policy within the African RECs and the AU as a whole.

At both regional and continental levels, African Head of States have formally committed to fostering, over time, free movements of goods, services, capital and persons. This has reinvigorated the universalist stance of Nkrumah, which aims to create an African citizenship identity based on the belief of common ancestry. However, these political aspirations have not translated into practical reality due to the protectionist stances of some member states that are unwilling to cede any degree of their sovereignty on matters of migration. Therefore, it appears to be a paradox that African states, on one side, refuse to ratify regional agreements for FMP, delay their implementation or fail to amend national laws to comply accordingly and, on the other side, express their commitment to a free movement regime.

Findings from this report indicate that regional migration governance occupies a key position in the African agenda. On a continental level, the AU supports and provides direction to regional migration programmes and policies. These policy directions are also explicit in the AU's vision.

However, in order to further promote the discourse and policy agenda on intra-African migration, it is important to foster dialogue between governments, academia, NGOs and CSOs. The opening up and broadening of new spaces to disseminate evidence-based research can contribute to a better understanding of African migration, set regional priorities and shape an African migration narrative.

All the RECs examined in this study have embraced some policy initiatives to ease the movement of persons, however, the depth of commitment to and implementation of such policies varies from one REC to another. Among all the four RECs considered, ECOWAS and the EAC are far ahead of the SADC and IGAD. Within ECOWAS and the EAC, there is a Protocol on Free Movement, Residence and Establishment, which member countries have ratified and are at different stages of implementing. ECOWAS and the EAC also have a free visa regime in place and have adopted a regional passport. ECOWAS has institutions in place, such as the FMP Directorate and the Humanitarian and Social Affairs Directorate, that are meant to oversee the implementation of migration policies by member states and to address issues regarding the rights of labour migrants. On the contrary, all of the other RECs lack institutions with such specific mandates.

Within the SADC, migration continues to be a hot issue. A protocol originally aiming to free the movement of persons across the region was diluted to 'facilitating' movement in the final forms and has yet to receive the necessary ratification despite being adopted in 2005. In the SADC, member states rely heavily on state autonomy and bilateral agreements in managing migration. Generally, there is also a negative public attitude towards migrants in the SADC, particularly in South Africa, where Afrophobic[3] outbursts have been witnessed over the years. This is not the case in the ECOWAS and EAC regions.

Despite the declared objectives and intentions to ease the movement of persons within the continent, the African approach to regional migration presents a paradox of paradigms observable at regional and national levels, which we wish to examine in these final stages of the report.

5.2 The Paradox of Paradigms: National vs Regional/Continental Paradigms

From the discussion thus far, we observe that what the RECs propose to do at regional level is the opposite of what member states actually do at national level. At regional level, African leaders have adopted a liberal approach to migration, while at national level, states are more protectionist and restrictive in their approach to migration governance. The 1991 Abuja Treaty, the Constitutive Act of the AU and the AU Vision 2063, urge member states to take steps at bilateral or regional levels to progressively achieve FMP on the African continent. At the regional level, ECOWAS, the EAC, the SADC and IGAD have all adopted liberal migration policies with the objective of freeing the movement of persons and addressing concerns relating to the rights of migrants. However, the African citizenry continues to encounter multiple obstacles to free movement within the continent. Several factors might contribute to this situation and explain this contradiction. One of these may be the 'philosophical orientation' of member states and the kind of meaning they give to the regional bodies they join. Williams (2011) has observed that within the SADC, countries have historically viewed migration as a national competency matter and have generally adopted a restrictive and protectionist approach in managing migration. In this light, states refuse to cede their sovereignty to regional, supra-national organisations in migration affairs. In fact, the pendulum between a universalist African nationality without borders championed by Nkrumah, and a more functionalist or nationalist approach championed by Senghor, continues to influence the African approach to regional integration and migration. African leaders who view integration as the dream of a free African nation are willing to open their borders for a deeper interaction among their citizens.

Another factor that lies at the heart of the paradox may be that migration policies are, to some extent, influenced by the European agenda and do not always respond to the needs, priorities and aspirations of African citizens. As noted by Betts (2011:30),

> [...] there are three principal mechanisms by which states can influence other states in world politics: persuasion, which relates to changing the beliefs of another actor; bargaining, which relates to inducing or coercing an actor through the use of carrots and sticks; and emulation, which relates to setting out a desirable model to pursue. Each of these mechanisms of influence has been present within EU-African trans-regional governance.

Following these premises, one of the risks of regional integration process and migration policy implementation is to simply emulate others without taking specific socio-cultural conditions, political history and regional interests into account.

Alongside the processes of national migration policy formulation initiated by several African states, numerous regional initiatives were started to promote an international migration regime and to foster dialogue and multilateral cooperation between states. In this regard, international organisations and NGOs funded by the EU have played an important role in assisting African governments to develop 'good practices' to fight irregular migration and enhance border security.

Intra-regional migration fora led by groups of migration experts from international organisations (IOs) have played an active role in agenda setting and migration policy formulation (Thouez & Channac, 2005). Therefore, the increased involvement of IOs, as a direct consequence of the globalisation of migration, has raised some points of contention with regard to their role and function. Formal and informal networks, such as the MIDSA initiated in 1997, the Euro-African conferences and the Regional Consultative Migration Processes (RCMPs), were spearheaded by IOs and backed by the EU with the primary objective of setting the agenda of global migration management (Kabwe-Segatti, 2011).

Furthermore, the regionalisation and the technicisation of migration, which require a high level of competence and knowledge, have allowed IOs to "increase their role and activities in the field of migration" (Geiger & Pécoud, 2014:2), but this has also raised some questions about their underlying policy objectives.

This leads to the conclusion that it is not only the process of policy formulation and the role played by African states that deserve more attention, but it is also the direct involvement of IOs in domestic and regional policy formulation that requires a thoughtful analysis.

CONCLUSION AND RECOMMENDATIONS

The founding policy framework for the governance of regional migration within the continent highlights FMP as a key long term objective for the AU. The Agenda 2063 calls on Heads of States to facilitate the establishment of a Continental Free Trade Area and the implementation of a continent-wide visa-free regime. Furthermore, following the ideals of Pan-Africanism and the vision of African unity, the creation of regional economic communities and the enactment of Protocols on Free Movement of Persons, aim at a progressive abolishment of borders. Despite this, there are numerous problems and challenges related to FMP within the REC's as well as at the continental level. Amongst these challenges, which require corresponding solutions, are: the prioritisation of national interests, bureaucratic hurdles, corruption at borders, lack of harmonised migration policies, unstable economies of many member states, security concerns, inadequate infrastructures to facilitate labour mobility and the lack of reliable data on population and migration. A key feature of regional integration, particularly in the political domain, is institutional integration. This refers to the establishment of supra-national or centralised institutions that have jurisdictional authority over member states. Such institutions include a parliament, a court of justice, a central bank, regional armed forces, etc. The strength and power of such institutions within a union also explain the degree of integration. When there are inexistent central institutions to manage regional affairs, or when they exist but are weak, there is poor interstate cooperation in managing regional affairs.

From our study, the RECs lack strong regional institutions to enforce compliance of rules. Moreover, there is a need for research institutions to support and inform policy decisions on migration matters. Countries need to be made aware of the implications of liberal migration policies in empirical terms to enable them to make the necessary commitment. If African states want to adopt a liberal regime, as spelt out in the (non-binding) protocols, then they need to realise that regional integration is primarily aimed at achieving African citizenship identity, a feeling of common ancestry and common identity, which warrants solidarity and support for Africans in need. These principles are the underlying factor that accounts for why many Africans reject and are unable to accept xenophobic attacks perpetrated against African migrants in several African countries.

Below is a list of policy recommendations directed to African states regarding their roles in supporting the process of regional integration:

1. **Decolonising migration policies:** The governance of migration requires a high level of competence and, over the years, communities of migration experts from the global north as well as IOs, have been directly involved in the formulation of migration policies in Africa. This has raised some questions about the underlying policy objectives of IOs and European states who predominantly set the agenda on migration governance in Africa, as the 2015 Valletta Summit clearly showed. Such an agenda prioritises issues of security, border control and measures to reduce irregular migration.

   It is therefore necessary for African states to clearly spell out their own priorities and agenda on migration, take full ownership of their initiatives and support an African regional migration policy framework based on a common African ancestry, values and the universalist concept of African citizenship. This is to ensure that policy options are deeply grounded in African realities and focus on long-term solutions.

2. **Economic integration and labour mobility:** The concept of FMP and labour cannot be separated from regional economic integration and development. It is not practical, in fact, to draft, agree upon and ratify agreements on labour mobility with other countries with whom there are no free trade agreements or common market arrangements. Despite the numerous challenges, such as uneven economic development of member states, maturity of civil registration and immigration management systems, regional labour mobility initiatives need to be encouraged. These can promote economic development opportunities and boost market access for their member states. However, such regional labour policies should not be restricted to highly skilled migrants but also include provisions for low-skilled and semi-skilled workers.

3. **Establishment of effective supra-national institutions:** As mentioned earlier, a key feature of regional integration, particularly in the political domain, is institutional integration. This refers to the establishment of supra-national or centralised institutions that have jurisdictional authority over member states. The lack of strong supra-national authorities capable of ensuring compliance, enforcement and sanctions undermines the process of regional integration, political transformation and policy reform. Therefore, it is desirable to establish a supra-national authority able to set up a technical and administrative framework to implement and enforce regional integration agreements.

4. **Encourage states to adopt national policies that protect against forced labour, exploitation and trafficking and provide migrants with access to adequate social protections:** Adopt national minimum wage laws that require the regular and predictable payment of wages. Enact legislation that grants access to national pension schemes and that guarantees the portability of social security coverage and benefits between and among countries to prevent migrants from losing entitlements due to their migration status.

5. **Encourage states to enhance collection, analysis and dissemination of migration data in order to promote evidence-informed policy in Africa:** Research findings gathered by researchers, NGOs, think tanks and CSOs disseminated across the continent can contribute to the formation of new ideas and concepts on the African migration narrative.

RECs have established institutional frameworks to enhance CSOs' participation and engagement with the regional integration agenda. However, the involvement of CSOs in the affairs of RECs has remained limited due to structural and institutional weaknesses.

The following recommendations are directed to Civil Society Organizations (CSOs):

6. Despite the existence of networks and umbrella organisations, **CSOs should collaborate more and strengthen strategic partnerships** in order to be more effective in advocacy interventions and engagement with sub-regional and regional institutions.

7. **CSOs should make the effort to broaden their scope of initiatives at a regional level,** improve the information flow and their capacity in collecting and disseminating data, reduce duplication of initiatives and organise efforts around a common agenda.

8. **CSOs should push for binding laws and protocols on migration**, as most protocols that are in place are not legally binding. They should also advocate for harmonised migration and encourage member states to focus more on their region rather than their individual states.

TABLE 1: REGIONAL ECONOMIC COMMUNITIES (RECs)

AMU	EAC	ECOWAS	CEN-SAD	COMESA	IGAD	ECCAS	SADC
Algeria	Burundi	Burkina Faso	Burkina Faso (1998)	Burundi	Djibouti	Cameroon	Angola
Libya	Kenya	Cape Verde	Chad (1998)	Kenya	Ethiopia	Central African Republic	Botswana
Mauritania	Rwanda	Gambia	Libya (1998)	Djibouti	Somalia	Chad	DRC
Morocco	Tanzania	Ghana	Mali (1998)	Eritrea	Eritrea	Republic of the Congo	Lesotho
Tunisia	Uganda	Guinea	Niger (1998)	Ethiopia	Sudan	Equatorial Guinea	Madagascar
		Guinea-Bissau	Sudan (1998)	Malawi	South Sudan	Gabon	Malawi
		Ivory-Coast	Central African Republic (1999)	Rwanda	Kenya		Mauritius
		Liberia	Eritrea (1999)	Uganda	Uganda		Mozambique
		Mali	Djibouti (2000)	Egypt			Namibia
		Niger	Gambia (2000)	Libya			Seychelles
		Nigeria	Senegal (2000)	Sudan			South Africa
		Sierra Leone	Egypt (2001)	Swaziland			Swaziland
		Togo	Morocco (2001)	Zambia			Tanzania
		Senegal	Nigeria(2001)	Zimbabwe			Zambia
			Somalia (…)	Comoros			Zimbabwe
			Tunisia (…)	Madagascar			
			Benin (2002)	Mauritius			
			Togo (…)	Seychelles			
			Ivory Coast (2004)	DRC			
			Guinea-Bissau (…)	South Sudan			
			Liberia (…)				
			Ghana (2005)				
			Sierra Leone (…)				
			Comoros (2007)				
			Guinea (…)				
			Kenya (2008)				
			São Tomé and Príncipe (..)				

Source: Adapted from Oucho (2015)

NOTES

1   Transhumance is the seasonal migration of livestock, and the people who tend them, between lowlands and adjacent mountains.
2   This group includes: refugees, asylum-seekers, internally displaced people (IDPs), returned refugees, returned IDPs, stateless and other persons of concern.
3   Xenophobia is generally defined as 'the deep dislike of non-nationals by nationals of a recipient state.'

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