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FREE MOVEMENT OF PERSONS AS A VEHICLE FOR PROMOTING SUSTAINABLE DEVELOPMENT IN SOUTHERN AFRICA: CHALLENGES AND PROSPECTS FOR THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA)

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ABSTRACT

Despite the widely recognised benefits of migration, there is currently a multiplicity of administrative challenges as well as high levels of poverty which limit the number of potential voluntary legal migrants in Africa. Against this background, the paper assesses the Southern African Development Community's (SADC) migration governance regime and discusses how member states can enhance the development prospects of their respective countries if they work towards the reduction and elimination of restrictions to movement of their populations within the framework the African Continental

Free Trade Area (AfCFTA). Qualitative methods are used in data collection and analysis. The paper relies on secondary sources of data such as published book chapters, journal articles and occasional reports. The data is analysed thematically. The findings reveal that despite the existence of AfCFTA, SADC and its member states have not utilised this initiative to encourage the free movement of goods and people and ultimately promote sustainable development in the region. The major regional economies such as South Africa, Botswana and Namibia are reluctant to promote free movement of people and goods in Africa and SADC. Despite having genuine concerns about migration, it is recommended that major regional economies should put regional interests ahead of national interests if the free movement of goods and people and sustainable development is to be achieved at both the continental and regional level.

Keywords: AfCFTA, migration, sustainable development, SADC.

INTRODUCTION

The current global estimate shows that in 2019 there were 272 million international migrants (United Nations Department of Social and Economic Affairs [UN DESA], 2019) while an estimated 740 million were internal migrants (International Organisation for Migration [IOM], 2020). In the case of the African region as a whole, 21 million migrants were estimated to be living in another African country (Africa Center for Strategic Studies, 2021). The growth of intra-African migration peaked significantly since the beginning of this century from 12.5million in 2000 to 19.4 million in 2017 (United Nations Conference on Trade and Development [UNCTAD], 2018). Migration in Africa is mainly intra-continental, and it particularly takes place within Regional Economic Communities (RECs) (Adepoju, 2016). High costs associated with long distance (inter-regional) migration and other risks to adaptation in completely new socio-cultural environments explain why the majority of migrants travel for short distances mostly within the same regions. Meanwhile, intra-continental migration in Africa mainly occurs within specific corridors and the majority of migrants end up in Côte d'Ivoire, Ethiopia, Kenya, Nigeria and South Africa (Awumbila, 2017).

Factors behind the rapid increase in intra-regional migration within sub Saharan Africa and Southern Africa in particular, in the past few

years have been widely discussed by many other scholars (Adepoju, 2016; Africa Center for Strategic Studies, 2021; Awumbila, 2017). However, it is still imperative to reinforce them here. Prospects for a better life elsewhere, unemployment and prospects for employment, economic instability, violent conflicts, wars, and natural disasters as well as the menace of climate change are among the most important factors of migration in the region (Internal Displacement Monitoring Centre [IDMC], 2019). The most worrisome issue, however, is that quite a significant population of the voluntary migrant stock, (those not forced to move by circumstances which threaten their lives and livelihoods such as war, persecution, natural disasters, and climate change) which is of concern to this discussion, consist of irregular migrants. Irregular migrants are defined as persons who migrate or enter and stay in another country in contravention of the migration/immigration laws of their countries of origin, transit and destination or host. The IOM (2021) defines irregular migration in more simple terms as movement that takes place outside the regulatory norms of the sending, transit or receiving country. In 2009, the IOM estimated that between 17,000 and 20,000 male irregular migrants from East Africa and the Horn of Africa alone were smuggled into South Africa (IOM, 2017).

While there are several factors that force people to be irregular or illegal migrants such as high costs of acquiring travel documents such as passports and visas, lack of knowledge on the importance and where to get the documents by some migrants, porous borders and economic instability among others, the biggest challenge is, however, lack of an effective and inclusive regional migratory legislative or governance framework that promotes the free movement of people. Currently, most countries' migration policies have many obstacles to free movement of people and this is also made worse by the current low levels of regional integration, particularly in Southern Africa. Scheneiderheinze (2018) notes, for instance that, Africa is the least integrated region in terms of mobility and related infrastructure and regulations. Africans need visas to travel to about 55 percent of African countries, while North Americans do not need visas in 20 percent of African countries they travel to currently. Further still, these North Americans can acquire visas upon arrival in 35 percent of African countries, a rare privilege which does not apply to the majority of those born on the continent. South Africa, the regional economic power house and major destination country has a very restrictive

migration policy among many other nations in the region (Oucho & Crush, 2001).

Nevertheless, given the fact that there is a growing intensity of regional migration which is projected to accelerate particularly in the next two decades for Sub Saharan Africa due largely to its demographic dividend, climate change and efforts at increasing economic integration and trade through recent efforts such as the African Continental Free Trade Area (AfCFTA), the need for developing a more effective and inclusive regional migration regime that promotes free movement of people becomes a matter of urgency and unparalleled importance for Southern Africa if she wants to maximise on the developmental dividends of migration to promote sustainable development. The paper thus, assesses the Southern African Development Community's (SADC's) migration governance regime and discusses how member states can enhance the development prospects of their respective countries if they work towards the reduction and elimination of restrictions to movement of their populations within the framework of AfCFTA. Precisely, the paper assesses whether and how Africa and SADC in particular can take advantage of AfCFTA to promote the free movement of goods and services in order to advance sustainable development in the region.

A number of studies have examined the link between migration and sustainable development in Africa and Southern Africa (Adepoju, 2016; Africa Center for Strategic Studies, 2021; Awumbila, 2017). However, there remains a lacuna in terms of academic knowledge on exactly how SADC and its' member states can leverage on AfCFTA to advance the free movement of goods and services as a vehicle for promoting sustainable development in the region. This paper therefore, fulfils this pertinent gap in literature. Academic information on how SADC (both as an organisation and as individual member states) can take maximum advantage of AfCFTA can be of benefit to policy makers and analysts within SADC who have been grappling with migration and development issues over the years.

CONCEPTUALISING THE NEXUS BETWEEN FREE TRADE, MIGRATION AND SUSTAINABLE DEVELOPMENT

There is little if any academic contention that there is nexus between migration and sustainable development. Indeed, several studies have

convincingly argued that there is a correlation between these concepts (see Aniche, 2020; Fraser & Uche, 2010; He et al., 2021; Kirchner, 2020; Langan & Price, 2021). Perhaps an issue that requires further academic scrutiny is the link between free trade, migration and sustainable development, a pertinent gap in knowledge that this paper attempts to bridge. However, before exploring the nexus between these concepts, it is important to conceptualise exactly what they entail in the context of this paper.

As a concept, free trade refers to a policy where there is little or no restrictions on exports and imports between two or more states or regions. Free Trade Agreements (FTAs) are thus, treaties and agreements between two or more states where they agree to limit restrictions on trade in goods and services (Australian Government, Department of Foreign Affairs and Trade, n.d.). Therefore, AfCFTA represents a classic example of an FTA as it advocates for the removal of all barriers to inter-African trade in goods and services. Closely related to the concept of free trade is the concept of migration. National Geographic (n.d.) simply defines human migration as the “movement of people from area of the world to another”. Migration is influenced by several push and pull factors that include famine, war and better job opportunities amongst other factors. Another concept that is closely related to both free trade and migration that this paper is concerned with is sustainable development. Sustainable development is defined by the Brundtland Report as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (World Commission on Environment and Development, 1987). Close scrutiny of these 3 concepts – free trade, migration and sustainable development reveals that there are backwards and forwards linkages between and amongst these three concepts.

Still on the same note, it is critical to understand that policies such as FTAs have an effect on both migration (legal) and sustainable development as they can result in net increases in both of these concepts. Where FTAs are efficiently implemented, there is evidence that legal migration has increased and sustainable development has also increased. While the relationship between and amongst these concepts is cyclical, an important to note is that this relationship is not one-way, rather it is a two-way reciprocal relationship. As aptly explained by Aniche (2020), FTAs such as AfCFTA can result

in increases in legal or documented migration and sustainable development if well implemented. Conversely, the absence or failure of FTAs such as AfCFTA and or sustainable development is also likely to result in increased illegal or undocumented migration and thus affecting sustainable development in the long run. Such is the complex and intertwined relationship between free trade, migration and sustainable development. Hence, this paper is underpinned by the complex relationship between and amongst the three intertwined concepts of free trade, migration and sustainable development.

METHODOLOGY

The paper is based on the qualitative research paradigm. It relied on secondary data sources such as published book chapters, journal articles, IOM, SADC, AU and World Bank annual and occasional reports on various aspects of migration in the African Union as well as the Southern African Development Community (SADC). The information gathered from extensive searches of physical libraries and online repositories was grouped in themes and analysed accordingly. Precisely, thematic analysis involves reading through and coding the collected data to elicit themes emerging from the data and then interpreting the meaning of these themes (Maraire et al., 2021). The data was presented in thematic format by grouping similar concepts from the studies and documents reviewed.

AFRICA MIGRATION POLICY FRAMEWORK

Within the African Union (AU), the frameworks relating to migration stem from the Treaty Establishing the AEC (the Abuja Treaty) (Achiume & Landau, 2015). Article 43 of the Treaty reads that:

“Member states agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community.”

(Organisation of African Unity [OAU], 1991, p. 40).

The African Common Position on Migration and Development and the Migration Policy Framework for Africa, both adopted in July 2006 are the main policy documents of the AU relating to migration. The African Common position on Migration and development presents what was agreed upon relating to each of the eleven priority policies relating to migration which could be summarized in the following categories namely: Human resource and the brain drain; Labour migration; Remittances; African Diaspora; Migration and Peace, Security and Stability; Migration and Human Rights; Migration and Gender; Children and Youth; Elderly; and lastly Regional initiatives (AU Report, 2006; Urso & Hakami, 2018).

The other initiative developed the same year is the Migration Policy Framework for Africa (MPFA). Klavert (2011, pp. 3-4) summarised the recommendations of this initiative as to:

“establish regular, transparent and comprehensive labour migration policies; develop a pan-African framework for the free movement of persons; enhance the role of the AU and other regional organisations in effective border management; harmonise sub-regional migration policies; strengthen policies to prevent trafficking and develop regional countermeasures; create standards for return and readmission, implement the principle of non-refoulement; safeguard the human security needs of refugees; strengthen intra-regional cooperation in relation to the maximum influx of refugees; formulate a strategic policy on the management of IDPs, address causes of internal migration; ensure the humane treatment of detained migrants and guarantee their access to the courts; promote the integration of migrants; gather data for effective migration management, policy and cooperation, develop common data standards; foster stronger relations with African diaspora; promote a NEPAD strategy for the retention of Africa’s human capacities; foster the transfer of skills; encourage remittances.”

The AU has had many initiatives or protocols in which a majority have no binding weighting among which as observed by (Urso & Hakami, 2018) out of nine only two (2) on Refugees and Internally

Displaced persons (IDPs) had a binding effect with the outstanding seven (7) on migration and labour had absolutely no binding effect even as migration stood and still stands as a humanitarian question.

Another major development in the regional integration was the creation of an African Continental Free Trade Area (AfCFTA) announced at the AU's 10th Extraordinary Session of the Assembly on AfCFTA held on 21 March 2018 in Kigali, Rwanda (AU, 2018a). The major goal of AfCFTA is to address Africa's long standing economic fragmentation by eliminating trade barriers across the continent as well as enhancing continental economic integration (World Bank, 2020). The AfCFTA will cover a market of 1.3 billion people across all 55 Member States of the AU that have a combined gross domestic product (GDP) of \$3.4 trillion, thus making the AfCFTA the world's largest free trade area in terms of numbers of participating countries (World Bank, 2020). In as far as poverty alleviation is concerned; the World Bank (2020) posits that if it achieves its full potential, the AfCFTA has the capability to lift 30 million people out of extreme poverty. The AfCFTA thus, provides perhaps the best opportunity for Africa to inch close to achieving the sustainable development goals (SDGs) particularly goal 1 which seeks to end poverty in all its forms. However, as emphasized by the World Bank (2020), the full potential of the AfCFTA can only be realised if all the parties involved (AU, RECs and Member States) commit to significant policy reforms and trade facilitation measures.

Perhaps the most critical step towards realising the full potential of the AfCFTA is ensuring that all the concerned parties are on board. To this end, AfCFTA officially entered into force on 30 May 2019 after 22 AU Member States ratified the agreement (World Bank, 2020). As of May 2022, the AfCFTA agreement had been signed by 54 out of the 55 AU Member States and of these, 43 of the signatories representing 80 percent have deposited their instruments of AfCFTA ratification to the AU Commission (Trace Law Centre [Tralac], 2022). While certain countries - such as Nigeria and South Africa, which are among the largest economies in Africa - were initially hesitant to sign the agreement due to concerns related to the conciliation with the Economic Partnership Agreement (EPAs) between the EU and the African Member States, they have since come on board having both ratified the AfCFTA agreement as of May 2022. Evidently, there has been tremendous progress made towards the legal operationalization of the AfCFTA agreement since the idea was first mooted in 2012.

An analysis of current AU policy initiatives discussed above, regrettably shows a partial and half-hearted commitment to promoting the free movement of people in the region. Most of the AU's policy initiatives that would genuinely promote the free movement of people are not binding. Those that are binding do not relate to voluntary migration but special group of migrants such as refugees and Internally Displaced Persons (IDPs). Consequently, it is hard to follow-up the developments at continental level. Further, the AfCFTA initiative widely regarded by many as a potential game changer in the region in terms of promoting both human mobility and the movement of goods is yet to really take-off triggering fears that it will be yet another talk show. Moreover, the fact that as of May 2022 no trade had yet taken place under AfCFTA even though trade under the AfCFTA agreement officially began on 1 January 2021 has done little to allay the fears of both critics and analysts.

SADC MIGRATION STRATEGY

Just as in the case of the continental body's migration policy framework, the SADC migration strategy initiatives have also largely been reduced to talk shows with very little tangible results on the ground. Potentially progressive initiatives towards the promotion of a comprehensive migration regulatory regime that would genuinely encourage the free movement of people and goods and ultimately promote sustainable development, such as the 1996 draft Protocol on the Free Movement of Persons within SADC, have been scuttled by some member states. Stronger economies such as Namibia, Botswana but particularly South Africa have feared that allowing an unfettered movement of people would result in an influx of migrants in their countries from economically struggling member states (Crush et al., 2017).

The current framework is therefore characterised by bilateral migration agreements for visa exemptions that are more restrictive and selective. This migratory regime is less predictable for migrants which affect their investment decisions to be cautious and of a temporal nature. Just like its African migration strategy counterpart, the region's framework is rather more committed towards eliminating trafficking in persons and enhancing the security of refugees and IDPs in line with the UN comprehensive refugee response framework. While

these initiatives are also important and especially from a human rights perspective, they are of little force towards the promotion of the free movement of people and sustainable development. Current policy initiatives in South Africa to end the Zimbabwe Exemption Permits by September 2023 and a general hostile environment and attitude towards foreigners, punctuated by outburst of xenophobia casts a very bleak and doubtful future for the development and adoption of any kind of a comprehensive framework for the free movement of people in the region.

Developmental Dividends of Liberalized Free Movement of People in SADC

Regional benefits of economic integration and free labour movement are widely acknowledged as an engine for economic growth. According to the IOM (2014) migration can fuel growth, innovation and entrepreneurship in both sending and receiving countries if well managed. In March 2018, President Paul Kagame poignantly expressed that “the promise of free trade and free movement is prosperity for all Africans” (AU, 2018b). The World Bank amongst other development agents have been unequivocal in extrapolating the positive correlation between free trade (and free movement) and economic prosperity.

Today one of the often globally, widely cited benefit of migration is remittances. According to the World Bank (2010), Africa is among the leading beneficiaries of diaspora remittances. The Bank estimated that in 2016, the region’s remittance stock amounted to US\$61 billion up from US\$17 billion in 2004. Undoubtedly, this staggering amount of foreign exchange goes a long way in tackling some of the continent’s major challenges such as food insecurity, poverty, poor infrastructure, poor health and education among others. In 2011 the Bank argued that remittances were Lesotho’s leading major source of foreign exchange. This position is likely the same today given that no other major economic activity has been discovered in the country between then and now. Other studies by the World Bank (2010) had also revealed that migration had an impact on poverty alleviation. Remittances sent by migrants reduced the likelihood of poverty by 8.8 percent.

The flow of goods, finance, trade, developmental networks, private investment, finance of education and health and the general wellbeing of migrant families back home, are just but some of the few notable

benefits that have been credited to human migration. In the host countries, which are mainly developed countries and economies, migration plays a vital role of labour supply. Most of these countries are characterised by ageing populations as well as serious falling fertility rates creating a huge labour deficit in their population structures. Segatti (2011, p. 25) therefore notes that:

“migration plays a role in mitigating some of the shortcomings of regional labour markets with regard to the gap between the number of new labour market participants and the number of new jobs created, cyclical financial shocks, and the poor performance of some education and training systems.”

CHALLENGES TO FREE MOVEMENT OF PEOPLE IN SADC IN THE CONTEXT OF AFCFTA

Although the African continent and the SADC in particular have come up with impressive migration policy frameworks, just like their European counterparts, which speak to global development agendas such as the UNSDGs, Bertossi et al. (2021) among many other scholars feel that there are still many obstacles and a long way to go before the objective of achieving free movement of persons and goods which will foster sustainable development is achieved. The most worrisome aspect with regard to the above being that the leading economies in the region, South Africa and Nigeria in particular are reluctant to promote free movement of people. Beginning this year, 2022, the international media news has been inundated with South Africa's anti migration sentiments towards Zimbabweans. Pursuant to these sentiments, the South African Home Affairs department introduced two reforms to its existing migration framework, namely the scrapping of a special migration permits for Zimbabweans as well as revoking the special/critical skills arrangement of 2016 that allowed foreign students studying in critical skills disciplines in the country to acquire permanent residence if they so needed. While these actions are driven by genuine concerns such as competition for employment, the behaviour highlights practical challenges ahead of AfCFTA. In fact, these recent developments in SA's migration policy framework are a testimony to its long held and non-changing anti migration ideology. In 1996 the department of Home Affairs' response to the original 1995 Free Movement Protocol argued,

“For SA to compromise its immigration policy and control and allow free movement, will place the citizens in an already more of an already precarious situation with disastrous consequences for the Reconstruction and development Programme and commitment to a right for a better future”

(Oucho & Crush, 2001, p. 148).

Further, as already alluded to elsewhere in the paper, transforming documents into action is another big hurdle as testified by the non-binding statuses important treaties such as AfCFTA. The AfCFTA which many observers and developmental optimists have pinned a lot of hope as a vehicle for transformation, economic growth and development for the region, is yet to witness any real action. Precisely, no trade of any kind has yet been witnessed under the auspices of AfCFTA. This is difficult to comprehend particularly when one observes that the AfCFTA agreement was operationalized in 2019 and trade under the agreement officially started on 1 January 2021. The optimism that had emerged from the high number of signatories (54 signatories out of 55 AU Member States) and the equally high rate of ratification (43 out of the 54 signatories as of May 2022) is slowly turning into pessimism due to the lack of practical action. Thus, while they may have legally formalised the operationalization of the AfCFTA agreement, it is clear that member states are reluctant to put the agreement into actual practice. As evidenced by the non-existent inter-African trade under the AfCFTA agreement, there is little progress in terms of promoting the free movement of persons and goods for the general good of the continent. Rather, most members appear to put national interests ahead of regional as illustrated by the recent actions of South Africa.

Speaking at an event to mark the 30th anniversary of the establishment of SADC, Zimbabwe's former Deputy Prime Minister Professor Arthur Mutambara bemoaned the AU and the SADC member states' lack of commitment towards continental and regional integration initiatives such as the AfCFTA agreement arguing that it was the greatest impediment to economic and social development in the continent and the region (Mutambara, 2022). Professor Arthur Mutambara urged current SADC leaders to be conscious of the fact SADC and its precursors that is the Frontline States and the Southern African Development Coordination Conference (SADCC) had been

successful because of their commitment to regional collaboration and solidarity. Hence, it was critical for SADC leaders to put regional interests ahead of national interests because collective success, regional success will produce national success because numbers make a difference (Mutambara, 2022). It is therefore, important for SADC to leverage on this history of solidarity and cooperation if initiatives such as the AfCFTA agreement are to yield the expected benefits for the region.

Other factors presenting formidable challenges to the region's quest for free movement of people and goods to achieve sustainable development include heterogeneity of member states national economies, limited and divergent levels of industrial development, lack of peace and security in some member states, huge disparities in political ideologies and governance systems, lack of resources and capacity and cooperation among member states as well as a weak institutional framework. According to Bertossi et al. (2021), these challenges are compounded by the absence of a mechanism(s) for assessing and monitoring regional frameworks, among them, those on migration.

CONCLUSION AND RECOMMENDATIONS

The paper examined the current state of free movement of people and goods in the SADC region. Various migration initiatives and strategies at both the continental and regional level were discussed. It was established that, although there is a projected acceleration of migration in the next few decades due to a multiplicity of factors, among them the recent efforts being applied by AfCFTA, SADC and Africa in general still remain the most disintegrated regions economically with a litany of obstacles to the free movement of goods and people. It was noted that putting national interests ahead of the regions', failure to transform documents into action and the absence of mechanisms for assessing and monitoring frameworks are some of the major challenges standing in the region's efforts to promote a liberalized migration framework that would promote sustainable development of the continent and the SADC region. In light of these expositions, the paper recommends the following:

- a) The development of a framework for assessing and monitoring regional frameworks in order to trek on progress and challenges.

- b) Member state should continuously put efforts to ensure the reduction of tariff and non-tariff restrictions to the movement of both people and goods in order to promote safe regular migration as opposed to irregular migration and smuggling of goods across borders.
- c) Member states should believe in themselves and the institutions they create. This would help in transforming documents into action. A good example being AfCFTA itself. Widely believed by many to be a momentous achievement by the region, this initiative ran the same risk of becoming another “paper tiger” just as other numerous regional initiatives if member states have doubts regarding the motives of initiatives they create.
- d) There is great need for member states to genuinely try and improve the respective economies in order to reduce the gap among economies in the region. Rwanda, Botswana and Zambia are some examples where some efforts can be noted in that direction. This would consequently reduce the pressure for people to migrate thereby making the bigger economies in the region more willing to cooperate in promoting the free movement of people in the SADC region.
- e) There is need to promote good governance among member states. While a substantial number of migrants are enticed by economic opportunities in the receiving countries, an equally big number of migrants are running away from circumstances created by bad governance. Promoting good governance and respect of human rights would therefore definitely reduce substantially the number of potential migrants in the region.

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