

## Chapter 2

# Free Movement and Regional Integration in the ECOWAS Sub-Region



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This chapter situates attempts at promoting free movement of persons and regional integration in West Africa in a historical perspective. Employing a combination of historical policy research, critical literature review, and an analysis of secondary data, the chapter provides a chronology of the development of the Economic Community of West African States' (ECOWAS) Protocol on Free Movement. This is done within the context of how the implementation of the Protocol facilitate human mobility and regional integration. The chapter pays attention to how the provision of the Protocol enables citizens of the West African region to take advantage of the opportunities in member states, and further explores some of the major challenges in the implementation of the Protocol. The chapter shows that the protocol on free movement allows ECOWAS citizens to continue to travel without visas within the region. Free movement of persons in the region has yielded great economic benefits in terms of boosting intra-regional trade, supporting the livelihoods of Community citizens and increasing remittance flows within the region. Nevertheless, there are still challenges associated with extortion and harassment of migrants at border crossings, and a lack of coherence between the member state national laws and the ECOWAS Protocols has meant that protocol is yet to be fully realised. The chapter also presents analysis of the prospects of recent attempts at strengthening the protocol such as the proposal to lift the provision/restriction that allows/limits member states' citizens to enter and stay for maximum of 90 days and the proposal for the establishment of a common social security across the region.

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## 2.1 Introduction

Attempts at promoting free movement of persons and regional integration in West Africa is a long-standing issue. This is partly a coming to terms with history and the result of efforts to steer the direction of the West African region towards economic prosperity from the aftermath of colonial rule. Historically, West Africa was a unit of intense human, material and ideational circulation (Manuh, 2005). In precolonial West Africa, migrant labourers moved from one part of the region to the other. Commodities like salt and gold were traded from one end of the region to the other, and travelling scholars brought about literacy by moving and teaching the Ajami script. This movement continued into the colonial period in spite of restrictions to movement by various colonizers (Manuh, 2005). The result was that the societies and economies of independent West African states were integrated from the bottom up as a result of the activities of migrants, traders and scholars. Different individual leaders and groupings of nationalist leaders in the region proposed some form of integration to give formal expression to the reality of integration from below with a view to maximizing economic development.

Accordingly, the Economic Commission of West African States was established in 1975 to among other things integrate the people and States of the region in order to ensure development. The flagship tool of regional integration was the Protocol on Free Movement of Persons that was brought into force in 1979. The Protocol has gone through a number of phases – from free movement of citizens of member states within the region, the right of citizens of member states to settle across the region and their right to establish economic ventures. All these are seen as important to the ultimate objective of integrating the region for development.

Employing a combination of historical policy research, critical literature review, and an analysis of secondary data, this chapter provides a chronology of the development of the Economic Community of West African States' (ECOWAS) Protocol on Free Movement. This is done within the context of how the implementation of the Protocol facilitates human mobility and regional integration. The chapter pays particular attention to how the provision of the Protocol enables citizens of the West African region to take advantage of the opportunities in member states. The chapter goes on to explore some of the major challenges in the implementation of the Protocol and present an analysis of the prospects of recent attempts at strengthening the protocol such as the proposal to lift the provision/restriction that allows/limits member states' citizens to enter and stay for maximum of 90 days and the proposal for the establishment of a common social security across the region. There are two key findings in the chapter. Firstly, the protocol on free movement allows ECOWAS citizens to continue to travel without visas within the region. Free movement of persons in the region has yielded great economic benefits in terms of boosting intra-regional trade, supporting the livelihood of Community citizens and increasing remittance flows within the region. There are, however, challenges associated with extortion and harassment of migrants at border crossings, and a lack of coherence between the member state national laws and the ECOWAS Protocols has meant that

protocol is yet to be fully realised. Secondly, the implementation of a portable social security system is likely to enable citizens of member states to have a certain measure of basic income wherever they maybe in the sub-region. This will protect the rights of labour and improve the working conditions of workers in the sub-region. It may also help to undo the contradictions between sub-regional protocols and individual national legislation on one hand, and contradictions in the legislations of individual states, on the other.

The remainder of the chapter is organised as follows. The next section presents a historical account of the free movement protocol. This is followed by analysis of the implementation and outcomes of Free Movement in the West African sub-region. The issues that confront the full operationalization of the Protocol are discussed under challenges in the implementation of the Protocol”. We then outline the prospects of the “Proposed changes to Protocol “such as the lifting of the 90-day rule and the introduction of a social security schemes the region and their prospects. The conclusion restates some of the key arguments in the chapter.

## 2.2 Historical Overview of Free Movement Protocol

The idea of the formation of the Economic Community of West African States was to create a uniform space for member states to thrive. The main aim of the treaty that established this sub-regional group was to facilitate easy movement of people and goods by eliminating all forms of barriers to human mobility and regional integration. This objective feeds into the Free Movement Protocol which was birthed 4 years after the establishment of ECOWAS to bolster regional integration through the easy mobility of citizens of member states within the sub-region. The protocol reiterated the need for a borderless region, where Community citizens would be able to tap into and enjoy opportunities as well as resources available in other West African countries (Adeniran, 2012; Adepoju, 2001; Awumbila et al., 2018; Yeboah et al., 2021). This Protocol (A/P.1/5/79) that relates to Free Movement of Persons, Residence, and Establishment outlines the liberty of nationals of member states to enter, reside and establish within the boundaries of a member state, which was to be executed over 15 years in three different phases (Adeniran, 2012).

To facilitate and actualize the 1979 Protocol, other additional protocols have been adopted over the years. The first of such supplementary protocols is the 1985 Supplementary Protocol A/SP.1/7/85, which spelled out the code of conduct for implementing the Free Movement Protocol, enjoins states within the sub-region to give valid travel documents to their nationals. It also defines extra procedures for dealing with individuals being deported and for persons that entered a member state illegally. A year later, the 1986 Supplementary Protocol A/SP.1/7/86 that touched on the second phase of the Free Movement Protocol was formulated and it impressed on states to offer citizens of other member states within the region the opportunity to stay in their country to seek and pursue income-generating opportunities. It also impressed on the host member state to streamline the rules that govern the issuance

of the permits. It called on member states to specify that the same manner of treatment of citizens of a host country would be given to migrant workers who uphold the rules and regulations that govern their residence in areas such as job security, partaking in cultural and social events and re-employment in a situation of job loss (Bolarinwa, 2015; Yeboah et al., 2021).

The Supplementary Protocol of 1989 (A/SP.1/6/89) modified the provisions of Article 7 of the 1979 Protocol on Free Movement to establish the signatories' obligation to settle in a peaceable manner dispute surrounding the interpretation and application of the Protocol (Article 2). The 1990 Supplementary Protocol A/SP.2/5/90 focused on the implementation of the third phase of the Free Movement Protocol which is the Right to Establishment. The protocol enumerates the right of community nationals to settle and partake in economic ventures, establish and manage businesses in other member states devoid of discriminatory treatment unless justified by security, public order, or health requirements (Articles 2–4). It also disallows expropriating or confiscating of assets or capital of community nationals on a discriminatory basis and demands reasonable compensation in situations where capital or assets are confiscated (Article 7) (Awumbila et al., 2018; Bolarinwa, 2015; Teye et al., 2019).

In 1992, the Decision C/DEC.3/12/92 in bringing into practice a unified immigration and emigration form in ECOWAS Member States was formulated. This was to simplify cross-border procedures by harmonizing immigration and emigration forms that community citizens used. Accordingly, this requires the establishment of the unified 'Form' by states within the sub-region (Article 1). Furthermore, the 1993 revision of the ECOWAS Treaty, which is consistent with the Protocol (A/P.1/5/79), firmly established at article 59 emphasise the need for member states to do away with all forms of barriers that mitigate against the free movement of persons, goods, and capital, as well as the right of residence and establishment as provided in Article 3 (1) (Adepoju et al., 2010). Also, the ECOWAS Common Approach to tackle the difficulties associated with the implementation of the 1979 Protocol was adopted by the sub-regional heads of State and Government, on 18 January 2008. Even though the agreement does not have a binding force, and as such does not have to be signed, it gives directives and plans of action to be implemented by member states to help manage migration processes in the sub-region (Awumbila et al., 2018).

In a fairly recent development, ECOWAS has put in place structures at the regional level to facilitate migration aside the mechanisms adopted to implement the Free Movement Protocol. For instance, in 2001, the Migration Dialogue in West Africa was formed to encourage member states to debate on migration issues and other common matters that are not easily resolved at national level and would need to be taken up at the regional level. There is also widespread consensus that more efforts and commitment are needed both at the regional and national levels to see to the full implementation and adoption of the Free Movement Protocol and to liberalize the cross-border movement envisaged in the past. In line with this, the regional economic community has recently ratified a labour migration policy, and it is hoped that the regional migration policy will soon be approved (Castillejo, 2019).

### 2.3 Implementation and Outcomes of Free Movement Protocol

Human mobility in the West African sub-region is an ancient phenomenon and it is predominantly intra-regional. It been estimated that more than 70% of migrants that originate from countries in the sub-region are registered to dwell in other West African countries (UNDESA, 2018). To further build cohesion and foster development between member states and also deal with the effects of the imaginary international boundaries established by colonial authorities, countries in the West African sub-region came together to embrace a policy that was geared toward regional economic and cultural integration (Yeboah et al., 2020). The journey which began in May 1975 witnessed 16 nations sign a treaty that would bring ECOWAS into being in Lagos, Nigeria. This move was aimed at promoting development following the attainment of independence from colonial powers.

In 1979, 4 years after the birth of the ECOWAS treaty, the Free Movement Protocol was adopted by member countries (Balorinwa, 2015). The protocol sought to put in place the right of entry by nationals of member states and also ensure that community citizens could stay and set up viable business ventures in the boundary of member states, and by so doing nip in the bud barriers to free movement of people and goods across the region. It was forecasted to be a pivotal framework that would institutionalize an undivided regional socio-economic landscape and offer citizens of member states the privilege of having access to and also benefitting from opportunities available in member countries. These include but are not limited to: benefitting from human resources of other member countries; the ability of land-locked states within the community to access coastal zones; and enjoying natural resources by member states. It was also seen as an instrument capable of positively impacting economic, social, and cultural development activities in a harmonious manner within the sub-region (Adeniran, 2012; Awumbila et al., 2018; Bolarinwa, 2015; Yeboah et al., 2021).

Conceived and implemented through a phased approach, a critical examination of the level of progress of the protocol by member states in its adaptation depicts varied outcomes. The first phase of the protocol, that assured the right of entry to all community nationals, was approved by all member states in 1980. Thus, as part of the implementation of the first phase of the protocol, member countries were to allow a visa-free access window not exceeding 90 days to all citizens from the sub-region. This provision meant that all immigrants within the sub-region who possessed valid travel documentation had the right to enter through appropriate entry channels of other member states for not more than 90 days, and may apply for an extension if need be (Awumbila et al., 2014, 2018). However, Article 4 of the protocol enjoins the receiving country to deny access to an ECOWAS immigrant who may fall within the bracket of inadmissible immigrants based on its domestic migration laws. This ambiguity that surrounds the definition of persons that are labeled as inadmissible immigrants has given member states the leeway to cut back on the number of immigrants it receives from within the community (Balorinwa, 2015).

Nevertheless, it is remarkably clear that the general acceptability of all member states to the 90-day visa-free entry is refreshing. This meant that community nationals who possess valid travel documents and international health certificates are able to access and stay in other member states without applying for a visa. However while member countries such as Ghana and Sierra Leone have signed on to the supplementary protocols and approved the harmonized travel certificate for the community that is aimed at simplifying movement across borders, it has not been fully embraced by citizens and some state officials because of the little awareness. And citizens with a fair knowledge of its existence are less inclined to use the travel certificates as some border officials, which includes Ghana, do reject it (Adepoju et al., 2010; Awumbila et al., 2018).

Again, Yeboah et al. (2021) in their study argue that migrants' experience of this provision in the protocol is shaped by issues of level of awareness, social standing, nationality, and gender. The authors further note that migrants who travelled by air into Ghana had a relatively smoother passage of entry and were less susceptible to harassment and extortion from state officials compared to those that made the journey by land. A further inquisition into land travels showed it was fraught with difficulties to the extent that relatively less educated migrants had to pay their way through or be turned back. Even though the protocol sought to promote a common goal, its success of implementation is viewed in the light of the extent to which it falls in line with migration policies of the different member countries (Bolarinwa, 2015).

The second phase of the protocol, right of residence, came into effect in 1986 as it was signed by all community member states. It entails the right of a community national to live in the confines of a member country within the sub-region. The community citizen is required to adhere to the laws established in that country and to take up or apply for a job in compliance with rules that govern employment in the country, and the right of community nationals to travel within the boundary of a member state in search of a job. Thus, community citizens who desire to stay and work in another member state beyond the 90 days have to apply for work and residence permits (Awumbila et al., 2018; Bolarinwa, 2015). Nonetheless, the supplementary protocol to the second phase made exemptions to the right of taking up a job as it does not include civil service jobs unless otherwise allowed by the member state (Akindele, 2011). Again, community immigrants could seek redress when their rights are violated and in an event of deportation of a community immigrant, it has to be done without infringing on the rights of the immigrant. This has slowed down the implementation and achievability of the second phase of the protocol (Bolarinwa, 2015). There are indications that the process for granting work and residence permit in some member states do not conform to the Right of Residence Protocol. For instance, there is no difference in the standards of granting work permits to community nationals and other foreign nationals. Thus, work permits are granted to foreigners including community nationals on the account that the skills possessed by the foreigner cannot be found locally but in reality, this requirement is not always complied with as some state officials note the difficulty in determining whether or not such skills do exist locally (Awumbila et al., 2018).

The third phase of the protocol which is the right of establishment was to give nationals of member states the ability to set up businesses in another state other than their own within the sub-region. Its actualization was supposed to be done without interruption after the years assigned to implementing the second phase. However, a lack of political will has delayed the implementation process of this provision in the sub-region. Indeed, it is believed that the slow pace of implementation of the second and third phases of the protocol could largely be attributed to the economic downturn in the sub-region during the 1980s and displacement resulting from conflicts in certain parts of the region in the 1990s and early 2000s.

It is important to note that phase one of the Free Movement Protocol which has been fully implemented by all community members has to some degree impacted nationals of member states (Bolarinwa, 2015). Generally, the coming into force of the Free Movement Protocol which guarantees easy mobility across the West African sub-region is noted to have had meaningful impact on the socio-economic advancement in member countries. For instance, implementing the 90 days visa-free window by ECOWAS member states has enhanced human mobility in the region. This in turn has positively impacted on trading activities, and thus yielding massive economic dividends (Castillejo, 2019). The volume of trade in West African sub-region averages around 208.1 billion US Dollars, with Nigeria as the dominant actor followed by Cote D'Ivoire and Ghana. In 2017 alone, intra-regional trade stood at 17.6 billion US Dollars which represented 8.4% of total trade for the region in 2017. The seemingly low proportion of intra-regional trade is mainly the result of the external orientation of the region's trade flows. Thus, West Africa exports to and imports much more from the US, China, and the Europe Union. Exports and imports respectively were estimated at 43% and 57.9% in 2017. Intra-regional trade is mainly informal and remains mainly concentrated in retail trade and other low-productivity services (AfDB, 2020). Again, community citizens have been able to consolidate the already existing relationship in the ECOWAS community through their superior command of some Ivorian languages to enhance trading networks in the region. Thus, they are able to engage in direct sales of Ivorian and Nigerian goods to consumers in both countries.

In addition to trade, there is evidence to indicate favorable economic and social contributions brought forth by the free ease of movement across the ECOWAS sub-region particularly for individuals who engage in such processes and the states involved. Thus, the ECOWAS region has about two-thirds of its international migrants living elsewhere within the sub-region and that only a small percentage of migrants from the sub-region actually move to the western world (Lücke, 2015). West African migrants are six times more likely to travel within the sub-region than to travel to Europe (Olsen, 2011). It is therefore crucial to register the importance of migrant remittance across the region. Migrant remittances, an important source of income, help to cushion a sizeable number of West African households and communities and it is noted to contribute to the wellbeing of households and make them more resilient against financial uncertainties. Again, it has propelled the growth of many economies as it constitutes a source of investment (Maiyegun, 2015; Quartey, 2006; Yeboah et al., 2019).

Special mention could be made of some countries across the sub-region that are traditionally labour-sending countries. These include Mali, Burkina Faso, Niger, Cape Verde and Sierra Leone. This phenomenon is particularly true of countries such as Sierra Leone that has about 88% of its migrant population residing in Guinea likewise Burkina Faso with nearly 93% living in Côte d'Ivoire as of 2010 (Bolarinwa, 2015; Teye et al., 2015). This trend is reflected in the soaring regional remittances that have in part contributed to increase average household incomes in many West African communities and served as a lifeline in the face of financial difficulties, and also helped to reduce poverty levels by way of investments. The World Bank data shows an increase in inward migrants remittance inflow from US\$ 47 million in 2016 to US\$ 53 million in 2019 and US\$ 397 million in 2016 to US \$ 467 million in 2019 for Sierra Leone and Burkina Faso respectively. This shows the extent to which the free movement of people within the sub-region has to some degree fostered economic integration.

Moreover, free movement has enabled some ECOWAS nationals to set up businesses with or without the requisite documentation. It has to be said that migrants who work in the formal sectors are able to acquire the requisite permits that grant them rights of stay and work in member states unlike their counterparts (low-skilled workers), mostly in the informal sector who genuinely are not aware of such provisions, but are also able to function and operate without any major difficulties (Yeboah et al., 2021). For instance, Ghana registered about 460,000 foreign citizens in 2019. Out of this number, about 68% came from other parts of West Africa (UN DESA 2019). A large proportion of these migrants were low-skilled workers who took up jobs in the informal sector. Thus, Teye (2018) cited in IOM (2020) indicated that about 43% of these migrants were workers in the agricultural sector, 11% were employed in the manufacturing sector and 28% engaged in wholesale and retail trade. This situation is no different from the Gambia, which had about 215,000 foreign citizens in the country in 2019, out of which 93% were West African nationals. Available data indicates about 87% of foreign nationals present in the country were employed in low-skilled jobs with only 3% of foreigners in high-skilled employment. Within the same period in Senegal, 60% of 275,000 international migrants were from other countries in the sub-region who were mostly engaged in retail trade, handicrafts, and transport. Nationals from Togo and Cote D'Ivoire were, however, able to secure jobs in the telecommunications sector. But just like other states in the region, the jobs in non-governmental organizations and the private sector that require a high level of skills are mostly occupied by Americans and Europeans (UN DESA, 2019; IOM, 2020).



## 2.4 Challenges Associated with Implementation of the Free Movement Protocol

Regardless of the various protocols adopted over the years within the sub-region and the viewpoint of ECOWAS being a more formidable group on the African continent, member states have shown little commitment to the implementation and realization of the Free Movement Protocol which is seen as one of the advanced regional free movement regimes on the African continent (Bolarinwa, 2015; Castillejo, 2019). While the Protocol has enabled easier mobility by citizens of member states across the sub-region, and deepened regional integration in the form of informal trade, educational exchanges and the intermeshing of people, it has been beset by a number of challenges which range from contradiction between national policies and regional commitments, to differential enforcement of rules and class-based restrictions in the experience of mobility.

The demographic and socio-economic characteristics of the sub-region make it more challenging to successfully implement the Free Movement Protocol. This is because member states of ECOWAS exhibit varied socio-economic and demographic characteristics that have set the tone for the movement of their nationals across their territory. With a relatively younger population, West Africa is registered to have a population of 362.8 million in 2016, which is expected to increase in the coming decades. It is worth noting that the disparity in demographic features among member states is pronounced. For instance, while Nigeria has a population of about 180 million, the population of Cape Verde is less than a million.

Again, a significant number of countries within the sub-region still fall within the bracket of low-income countries even though most states have witnessed an improved economy since 2010. Such economic surge still persists as more economically advanced states are able to withstand external shocks than the less advanced ones. These economic and demographic characteristics have implications for human mobility in the sub-region which go on to affect the realization of the Free Movement Protocol (Awumbila et al., 2018). A classic example occurred during the 1980s when some member states suffered economic shocks and this situation triggered nationals of these countries to seek livelihoods in other countries within the Community. Thus, migrants mostly from Ghana, Chad, and Cameroon capitalized on the adoption of the Free Movement Protocol to move and work in Nigeria, whose economy proved resilient owing to the availability and production of oil in commercial quantities. But this was short-lived as conditions of work and standards of living began to plummet in tandem with currency devaluation occasioned by economic mismanagement. The economic woes that hit Nigeria compelled the government to revoke two articles of the Protocol, namely: Article 4 and 27, and deported about a million illegal migrants from the country. This affected confidence across the region and the chances of realizing the objectives of the Protocol. In a similar move, the Government of Cote D'Ivoire in the 1990s made changes in its immigration policy due to the increase in criminal activities and high youth unemployment which was blamed on the rising number of immigrants, who

were registered to be four million in a total population of 14 million in the country in 1995. This resulted in the cancellation of the liberal policy of the first president after independence to accommodate migrants from Mali, Burkina Faso, and Togo, and the physical attacks against migrants who have gained citizenship through marriage caused thousands of migrants to move back to their home countries (Adepoju, 2001).

A more prominent and recent challenge to the Protocol have been developments in Ghana and Nigeria aimed at limiting the space for migrants to engage in retail trade, in the case of Ghana, and the closure of borders (prior) to COVID-19, by the Nigerian, ostensibly to stop the importation of rice into the country in order to boost the consumption of locally produced rice. In Ghana, an alliance of local interest groups led by the Ghana Union of Traders (GUTA) has been closing down Nigerian owned shops in protest at what they claim is the crowding out of locals from the retail sector. They justify their action by alluding to a law in Ghana (Investment Promotion Centre (GIPC) Act 478 of 1994) that reserves certain trading activities to Ghanaian citizens (Yendaw, 2019). Occasionally these raids to close down shops are carried out by officials of the Ministry of Trade and Industry and the Ghana Immigration Service (Citifm, 2020). Further the closing of the businesses of member state citizens has had a great deal of effect on the livelihood and wellbeing of affected persons. For example, some Nigerian traders who spoke to Deutsche Welle expressed their frustration at the impact of the shop closures on their lives and wellbeing (Deutsche Welle, 2020 <https://www.dw.com/en/nigerian-traders-angered-by-ghana-shop-closures/av-54936773>). It has left traders without income and their employees without jobs. In a country like Ghana with high unemployment and underemployment figures (World Bank, 2020) the loss of any avenue for employment increases the scale of social suffering.

In contravention of the Protocol's provisions allowing citizens of member states to trade in goods within the sub-region, the Nigerian government closed its borders to goods from August 2019 until December 2020 (Kwarkye & Matongbada, 2021). Given that most of Nigeria's borders are with other ECOWAS member states, the closure effectively suspended the Protocol.

In spite of the progress in the actual process of movement across the sub-region, citizens still encounter many barriers as they attempt to move. The barriers can be broadly categorized into two: firstly, there is the incoherence in the requirements for border crossing by member states, and secondly, structural factors that are common across the subregion. The incoherence in policy relates to differences in the documents that are required in order to cross a border. The Francophone countries in the region issue national identity cards that have bio-data equivalent to those in passports. These allow holders to cross borders upon presenting them. The Anglophone countries in the region are only beginning to roll out similar cards. In Anglophone member states, passports are the acceptable documents for crossing borders. Consequently, immigration officials in Anglophone countries reject the identity cards of border crossers from Francophone member states where identity cards allow a person to cross borders.

The structural barriers relate to different experiences in crossing borders due to social standing, in particular class (Yeboah et al., 2021). Middle class people and professionals experience border crossing in a smoother way compared to working class and poor people who often have no travel documents and are not fluent in the official languages of the countries that they are crossing into or through (ibid). Related to this is bribery – requested and provided by both border officials and travelers who either want to avoid harassment or do not have the required travel documents. The above challenges affect both ordinary citizens and the sub-region's attempts to better integrate.

Closely linked to the crisis of employment is the effect of such policies on human integration and conviviality. As a longstanding migration confluence, West Africa has been integrated by mobility from far and near. The people-to-people links in the sub-region is very deep. This has been further strengthened by the Protocol. Ironically the breach of the Protocol in the form of shop closures has the potential of undoing the integration that has occurred before the Protocol and those that were occasioned by it. A study by Darkwah has demonstrated increases in anti-immigrant sentiments in Ghana (Darkwah, 2020).

While not achieving its intended aim of stopping the importation of rice, Nigeria's closure of its borders to goods from the region has had serious effects on the livelihood of citizens across the sub-region. This is partly because of the size of the Nigerian economy and the important place of the Nigerian state in West African political economy (Kwarkye & Matongbada, 2021). Nigeria's border closure has strengthened the anti-Nigerian business stands of GUTA in Ghana. Indeed, GUTA and its supporters have used Nigeria's border closure as an alibi for its activities.

After close to four decades of incremental efforts to integrate the region through the Protocol, the above challenges have rolled back some of the gains made. For example, Nigeria's border closures effectively suspended the Protocol by denying citizens of member states the right to move in the region with the purpose of engaging in livelihood generating activities. The difficulty experienced by some categories of migrants moving in the region directly challenges the trust that people have in the Protocol and leads to a situation where the Protocol is seen as being ineffective. This creates a drawback to the initial objectives of facilitating movement, settlement and establishment as envisaged in the formulation of the Protocol.

Notwithstanding, not much attention has been given to concerns raised of the institutional capacity of the regional body which is hampered by lack of leadership and overdependence on hierarchy and protocol, culminating in the belief that the ECOWAS commission typifies the dysfunctional civil services that exist in member states. Equally, there is a lack of commitment of member states which stems from the inability to align national priorities of member states to conform to set goals and targets of the ECOWAS body to provide a clear-cut pathway for effectively coordinating its activities (Castillejo, 2019). This has been seen as a key factor that inhibits the potential of fully implementing the Free Movement Protocol. Again, the ECOWAS commission is faced with budgetary constraints to support its quest to undertake set agendas such as implementing the Protocol. The institution, in the

light of this situation, has been subjected to enormous pressure to harmonize its operations and reduce its working staff which is around a 1000 (Castillejo, 2019).

## 2.5 Prospects of Recent Proposed Changes to the Free Movement Protocol

In view of the challenges and in furtherance of the original objectives of the Protocol, ECOWAS has proposed changes to the 90-day rule. The 90-day rule was meant to be a step in the progressive elimination of barriers to movement and trade and eventual integration of the region via the ceding of elements of sovereignty by individual member states to the supranational regional body – ECOWAS.

Following its establishment in 1975, ECOWAS set itself the task of an integrated future where citizens can move freely without hindrance. Accordingly, in 1980, the Protocol came into effect allowing people firstly to move for 90 days. The 90-days was seen as the beginning of a process towards a borderless sub-region, the rule was put in place with the intention of enabling citizens of member States. In 1986 the right to residency was added to the Protocol. As stated earlier, the 90-day rule has eased movement by doing away with visa requirements and facilitating informal trade between citizens of member States. However, it created a set of limitations in that citizens would have to leave or extend their stay in member countries. This creates another set of barrier as national process for regularization are not harmonised across the sub-region. Bureaucratic red neck, backlog and delays often set in and serve as limitations for people looking to extend their stay.

In view of the foregoing, Paragraph 11 of the communique of the forty fifth Ordinary Session of the Authority of ECOWAS Heads of State and Government held in Accra and issues on 10 July 2014 states that...“the Authority approves the abolition of the residence permit and the introduction of the Biometric Identity Card for the Community citizens...” (ECOWAS, 2014: 2).

Although it has been over 6 years since the approval of its abolition, residence permits are still being issued across Member States. Nonetheless the commission is moving ahead with plans to ensure that all member states issue the biometric ID cards. In view of the foregoing, the proposal to lift the 90-day rule is aimed at facilitating settlement by citizens of members states across the region. The change will enable citizens of member states to overcome the tedious process of having to go through time and resource consuming return journeys after 90 days or bureaucratically mired extension processes.

To facilitate labour migration and harmonize labour standards and welfare in the region, The Convention on Social Security was introduced and proposes to provide disability benefits for citizens of Member States irrespective of what part of the sub-region they find themselves. Similarly, it seeks to guarantee old age benefits to all citizens of the subregion wherever they find themselves in the sub-region. Other benefits that it seeks to provide include Survivors’ benefits, Occupational diseases

and work-related accidents, family benefits; maternity benefits health care and sickness benefits, and unemployment benefits.

The proposal is guided by the need to integrate the sub-region as a condition for development. This is in furtherance of the Protocol on Free Movement which envisages establishment and economic engagement. For this to happen, the convention seeks to ensure that workers' rights are accorded equal status irrespective of whether they are local or migrants. If the ECOWAS protocol is to be fully and effectively implemented, then Member States must harmonise their policies on social security to ensure the protection of all. The absence of the portability of social security means that citizens of member states residing outside their countries cannot change work environments and still have their social security. The lack of a regional social security system means that citizens of member states do not enjoy protraction in the form of unemployment benefits that can be moved.

The proposal envisages ensuring that workers are catered for in terms of social security while integrating the labour market of the subregion by encouraging labour migration without the loss of accumulated benefits. Key to this is the reduction of the likelihood of employers refusing to employ locals and instead engage non-locals due the lack of protection of the latter. It proposes to combat illicit activities, which will harmonise labour standard across social wage in the region.

## 2.6 Conclusion

Using a historical lens, this chapter looked at attempts at promoting free movement of persons and regional integration in West Africa. It employs a combination of historical policy research, critical literature review, and an analysis of secondary data, the chapter provided a chronology of the development of the Economic Community of West African States' (ECOWAS) Protocol on Free Movement. This was done within the context of how the implementation of the Protocol facilitated and continues to facilitate human mobility and regional integration. The chapter paid particular attention to how the provision of the Protocol enables citizens of the West African region to take advantage of the opportunities in member states. It also explored some of the major challenges in the implementation of the Protocol and presented an analysis of the prospects of recent attempts at strengthening the protocol such as the proposal to lift the provision/restriction that allows/limits member states' citizens to enter and stay for maximum of 90 days and the proposal for the establishment of a common social security across the region. Two key findings are presented. Firstly, the protocol on free movement is key to facilitating migration of ECOWAS citizens who travel without visas within the region. Free movement of persons in the region has yielded great economic benefits in terms of boosting intra-regional trade, supporting the livelihood of Community citizens and increasing remittance flows within the region. Nevertheless, there are still barriers to realising the full potential of the protocol. These challenges relate to extortion and harassment of migrants at border crossings particularly for low class citizens and migrants,

and a lack of coherence between the member state national laws and the ECOWAS Protocols has meant that phase 2 and 3 of the protocol is yet to be fully implemented. We have demonstrated that the proposal to lift the 90-day stay is likely to reduce the barriers to free movement and allow community citizens to take advantage of the opportunities in member states in a more sustainable way. It has the potential to further strengthen regional integration, increase mobility flows and foster regional development. We argue that the implementation of the portable social security system is likely to enable citizens of member states to have a certain measure of basic income wherever they maybe in the sub-region. This will protect the rights of labour and improve the working conditions of workers in the sub-region. It may also help to undo the contradictions between sub-regional protocols and individual national legislation on one hand, and contradictions in the legislations of individual states, on the other.

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