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Policies towards Migration in Africa

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Introduction

Although human mobility has, historically, been an integral part of life in Africa, the region has become the focus of recent policy discussions on migration governance (Knoll & de Weijer, 2016). This is partly due to the fact that Africa experiences massive labour mobility (Olsen, 2011) and worsening forced displacement situations (Teye, 2022a; UNHCR, 2020). Many of the African sub-regions are experiencing “mixed migration”, which entails “cross-border movements of people, including refugees fleeing persecution and conflict, victims of trafficking, and people seeking better lives and opportunities” (Mixed Migration Centre, 2021, 2). While media narratives tend to portray an exodus from Africa to the Global North, especially Europe, most African migrants actually migrate intra-regionally (Awumbila et al., 2018; Setrana and Yeoh, this volume; Teye, 2022a). The proportion of African migrants that are living within their own sub-regions is as follows: Middle Africa (79%), Western Africa (72%), Eastern Africa (71%), Southern Africa (52%), and Northern Africa (13%) (UNCTAD, 2018).

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African migrants represent less than 15% of the total migrant population in all other regions except for Africa, and only 27% of migrants from the continent live in Europe (Mo Ibrahim Foundation and Africa Europe Foundation, 2020). However, migration within the continent has been increasing in recent years (African Centre for Strategic Studies, 2020). This reflects in part growing inequalities, climate change, trade, and demographic imbalances but also a rise in demand for labour in key economic sectors, such as mining and construction, fishing, agriculture as well as services such as retail trade, health care, domestic work, restaurants, and hotel (Hlatshwayo, 2019; ILO, 2022). Outside Africa, Europe is the most popular destination of migrants from Africa. An increasing number of African labour migrants are also recently moving to the Gulf States (Deshingkar et al., 2019; Jamie & Tsega, 2018; Mlambo & Zubane, 2021).

In recognition that an effective labour migration governance system is critical to harnessing the benefits of migration and addressing its challenges, such as abuse of migrants rights, human trafficking, and limited access to social justice (ILO, 2022; Teye, 2022a), the African Union (AU) Commission and its Member States and Regional Economic Communities (RECs) have adopted a number of global and Africa-wide migration governance frameworks to address the challenges of migration. Many of the regional economic communities have also adopted various frameworks to govern migration.

Despite their promising nature, there are gaps in the implementation of these policy frameworks which are poorly understood. Drawing on a review of academic literature, policy documents, and reports of previous studies, this chapter examines the achievements, gaps, and challenges associated with continental, regional, and national level migration policy frameworks in Africa. The chapter argues that despite the progress in designing a number of migration frameworks which have contributed to some modest gains in better migration governance, several challenges continue to exist including a lack of reliable migration data, weak capacity, resource constraints, and lack of commitment on the part of policy makers. These challenges have affected the effective implementation of these frameworks.

The chapter is organised as follows. The first section presents conceptual issues on gaps between stated and actual policy. This is followed by an analysis of continental level migration frameworks, sub-regional migration frameworks, and national migration policies. The next section focuses on challenges inhibiting effective implementation of the continental, regional, and national migration policy frameworks. The chapter concludes with some reflections and recommendations to further improve migration governance in Africa.

Conceptualising Gaps in the Implementation of Migration Policy Frameworks

In explaining why migration policies may not be effectively implemented, we rely on the concept of “stated and actual policy” which is based on insights from the policy science literature (Aucoin, 1971; Grainger & Konteh, 2007). Actual migration policy reflects the true intentions of the governments towards migration issues (Teye et al., 2019). The actual policy may differ from stated migration policy which is published in official documents, as migration policies or frameworks.

The “stated and actual policy” theoretical perspective posits that, since governments cannot satisfy all interest groups, there are times when a government may formulate or sign a policy that it does not intend to implement. This strategy creates policy ambiguities as stated policy remains “symbolic statements” (Smith, 1985, 135) that are never fully implemented. According to Grainger and Konteh (2007, 46–47), there are three scenarios when stated policy may differ from actual policy. Firstly, a government may find it difficult to state its actual policy on an issue that does not support the interest of powerful interest groups. Secondly, actual policy may differ from stated policy when there are changes in government priorities compared with those at the time of the development of the stated policy. Thirdly, actual policy may deviate from stated policy when the government is not fully committed to an international agreement but it has signed it to satisfy its development partners.

Drawing on insights from this theoretical perspective, this chapter argues that some governments of African countries are not committed to the implementation of some of the regional level free movement protocols. These governments have signed such agreements in order to satisfy powerful partners. Our conceptualisation resonates with the assertion of Czaika and de Haas (2013) that despite signing a number of regional level free movement protocols, governments are actually in favour of discouraging immigration of unskilled migrants. We also assume that apart from lack of commitment, institutional weaknesses and resource constraints may also contribute to poor implementation of migration policies (Teye et al., 2019).

Africa Migration Governance Frameworks

This section focuses on migration governance frameworks at the continental level of Africa, focusing on three key migration policy frameworks, namely AU migration policy framework, the Joint Labour Migration Programme, and the AU free movement of person (FMP) protocol.

African Union Migration Policy Framework

Several policy frameworks have been developed and adopted by the AU to govern and manage both voluntary and forced migration in Africa. At the core of these policies is the vision of African economic integration which is clearly articulated in the Treaty Establishing the African Economic Community (Abuja Treaty) of 1994. The Treaty commits Member States—either bilateral, regional group, or individual—to take, “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 African Economic] Community” (AU, 1994). According to Article 43 of the Abuja Treaty:

Member States agree to adopt, individually at bilateral or regional levels, the necessary measures to gradually achieve free movement of persons and to ensure their nations’ enjoyment of the right of residence and establishment within the Community.

This Treaty has been ratified by at least 48 AU Member States (Achieme & Landau, 2015). The AU’s approach to governing migration in Africa is outlined in the Migration Policy Framework (MPFA) which was first adopted in 2006 by the Executive Council of the AU. The framework was subsequently revised in 2018 to reflect prevailing migration dynamics on the continent and address the challenges associated with migration on the continent. It articulates AU’s firm position that a well-managed migration has the potential to promote socio-economic development of Africa (Abebe, 2017; AU, 2018a). The MPFA covers nine key migration thematic issues: border management, labour migration, migration data management, human rights of migrants, forced displacement, irregular migration, inter-state cooperation and partnership, migration and development, and internal migration (AU, 2018a). It further articulates other social dimensions of migration, including gender, migration and health, conflict, and environment, among others.

The relevance of the MPFA cannot be over-emphasised. First, while the MPFA seems overly ambitious, it highlights the need to position humanitarian standards of migration within global human rights law. For instance, the MPFA enjoins Member States and RECs to develop policies to promote and protect the human rights of migrants, including developing guidelines to curb xenophobia and discrimination (Achiume & Landau, 2015, 3). Furthermore, the Migration Policy Framework underscores the need for conflict prevention and resolution (AU, 2018a; IOM, 2022).

Despite these achievements, there are some weaknesses of the MPFA. Achiume and Landau (2015) have identified several potential limits of the MPFA, categorised as political, institutional, and conceptual. The political limits emanate from the framework's own recognition of the potential political resistance of Member States to guarantee migrants' access to employment, services, market, and territories. Existing research has documented how migrants face multiple restrictions in terms of accessing markets, employment, and other services (Teye, 2022a; Yeboah et al., 2021). A major reason for these restrictions is the fact that while African governments have signed the framework (i.e. stated policy) they are concerned about preserving some sectors of employment for their own citizens (see Teye et al., 2019).

Moreover, conceptually, the framework speaks of tension between migrants and national security but encourages Member States to develop strategies to strike a balance in line with international conventions, norms, and standards. However, the already dire security situation in some parts of the continent with reported cases of xenophobia and human rights abuses of migrants suggest that the AU will need to do more to reinforce Member States commitment to promote the welfare of migrants (Achiume & Landau, 2015).

On the institutional front, there is no institutional mechanism embedded in the MPFA to monitor or track AU Member States compliance with the tenets and provisions of the framework. Indeed, the MPFA itself is non-binding and no Member State can be held accountable for failing to implement the framework.

Joint Labour Migration Programme

To further strengthen labour migration governance in Africa, the AU adopted the Joint Labour Migration Programme in 2015, with the overarching goal of recognising migration as one transformative tool for socio-economic development of Africa. The programme is supported by several development partners, including the International Organisation for Migration (IOM), the

International Labour Organisation (ILO), and the United Nations Economic Commission for Africa (UNECA). The programme was envisaged as a fundamental regional strategic framework to harness the developmental benefits of Migration, and to promote the protection of migrant workers' rights in aspects such as fair recruitment practices, social security portability, and portability of skills (AU, 2022; ILO, 2015). Accordingly, the JLMP aims to improve effective labour migration governance not only in Africa but also migration to the Middle East. It provides support towards the realisation of African Union's Agenda 2063 first 10-year Implementation Plan (2013–2023), and the UN Sustainable Development Goals (SDGs). Furthermore, the JLMP is fundamental to realising the provisions of the Global Compact for Migration as well as the Migration Policy Framework for Africa (MPFA) and its 2018–2030 Plan of Action (ILO, 2015). The JLMP has, since 2018, been implemented through several initiatives including Capacity Development in Migration Statistics (CDM) and Priority Implementation Actions of the AU-ILO-IOM-ECA Joint Programme on Labour Migration Governance for Development and Integration in Africa (JLMP Priority) both of which are funded by the Swedish International Development (SIDA) (ILO, 2022).

The JLMP has contributed to labour migration governance in Africa. The programme has been instrumental in developing two key draft policy documents, including the migrant welfare programme for Africa and the AU Declaration on the Protection and Promotion of the Rights of Migrant Workers. An assessment review carried out by the JLMP Steering Committee found some additional achievements worth highlighting. Firstly, the programme has established an effective management structure, and further provided technical and operational support to AUC and three RECs (SADC, ECOWAS, and EAC) in terms of their labour migration portfolios. The assessment also found that the JLMP facilitated the establishment of an AU Labour Migration Advisory Committee (LMAC) (ILO, 2022). Other best practices and achievements include supporting the development of and rolling out of regional instruments on social security portability for migrant workers and the launching of the first and second editions of the Migration Statistics Report (2019) as well as piloting of new mechanisms to collect administrative data in conjunction with the Economic Community of Central African States (ECCAS). Moreover, in 2020, the JLMP organised several capacity training workshops. Employers' organisations as well as workers' organisations have also benefited from capacity building workshops on labour migration governance. Again, by working with the African Regional Labour Administration Centre, JLMP has developed and implemented training modules on labour migration policy coherence, and further

trained around 50 persons from some 15 Member States on procedures to strengthening consular and labour attaché services in line with global labour standards. Through the JLMP, the AU-Labour Migration and Advisory Committee has been operationalised. Despite these achievements, the JLMP has not been able to significantly address issues of trafficking in persons and forced labour (Teye et al., 2022).

African Union Free Movement of Persons Protocol

Following a shift in focus from liberation to economic integration in the early 1990s, Africa's economic integration has been a very prominent agenda of the AU. In January 2018, during a summit in Addis Ababa at which the AU decided to establish African Continental Free Trade Area (AfCFTA) to promote free flow of goods and services, Member States adopted a Free Movement Protocol (FMP) to promote free movement on the continent (AU, 2018b; Hirsch, 2021). The FMP protocol, which is a flagship programme of the Agenda 2063 of the AU, aims to harness the benefits associated with interconnectedness, labour migration, integration, and broader trade in line with the SDGs. The long-term goal is to ensure that Africa becomes a borderless community where there is free movement of goods, capital, services, and persons with substantial rise in trade and investments and further improve the bargaining position of Africa in international trade. Embedded in the protocol are several mobility and labour migration related provisions, including: progressive realisation of the free movement of persons, rights of residence and right of establishment (Article 5), Free movement of students and researchers (Article 13), Free movement of workers (Article 14), permit and passes (Article 15), Mutual recognition of Qualifications (Article 18), Social Security Portability Benefits (Article 19), Remittances (Article 23), Procedures for the Movement of specific groups (Article 24), Cooperation between Member States (Article 25), as well as coordination and harmonisation (Article 26) (AU, 2018b).

The protocol is envisaged to be implemented through a three phased approach. Phase one covers right of entry of community citizens to other AU Member States for a period of up to 90 days without a visa. This requires Member States to eliminate visa requirements for community citizens aiming to enter a member country. It places responsibility on AU Member States to enhance their systems for managing migration, for example, the quality and veracity of civic registration systems. Phase two focuses on granting the right of residence to community citizens (i.e. AU migrants and their families) from other nation states. While the roadmap guiding the implementation of the

protocol indicates that phase two would commence from 2023, Article 5 of the protocol provides an avenue for speedy implementation of the protocol.

Phase three focuses on right of establishments. This guarantees Member State nationals the opportunity to engage in economic activities as self-employed or seek employment in trade, business, or profession in other Member States. The road map suggests that this phase would only be implemented following a review of progress of phase one and two by AUC. In line with the fears raised by some stakeholders during the negotiations, the Protocol recognises the potential danger that “arrival and settlement of migrants in a given host country will exacerbate inequalities or will constitute challenges to peace and security” and it notes the need to “ensure that effective measures are put in place to prevent (such) situations” (AU, 2018b; Hirsch, 2021, 18).

The Free Movement Protocol has modestly contributed to removing barriers to entry through the adoption and implementation of free visa regimes (visa on arrival, visa-free travel). The 2020 Africa Visa Openness Report highlights a notable achievement around facilitation of free movement of persons across the continent by some Member States (AU, 2021). The report found that more than half (54%) of Africa is now open to receive migrants without any visas requirements, a rise by 9% from the previous figure in 2016. The implication is that less than half of Africans (46%) require visas to travel to other 46% of African territories. Moreover, nearly a third of Africans can secure visas on arrival to 28% of other African countries, and a further 26% do not require a visa to move to 26% of other African countries. Nevertheless, only three countries on the continent provide visa-free opportunity for all African Countries: the Gambia, Benin, and Seychelles. While visa openness is rated overall as positive, the COVID-19 pandemic and its associated restrictions have impacted on gains regarding human mobility. This highlights the need for the development of visa-free regimes that transcend economic shocks (AU, 2021).

Despite these achievements, there remains low enthusiasm on the part of many Member States in implementing the Protocol. As of 2021, 32 countries were reported to have signed the AU Free Movement of Persons Protocol. While a minimum of 15 countries are required to complete and submit their ratification instruments, only 4 countries, namely Mali, Sao Tome and Principe, Niger, and Rwanda have ratified the FMP. The lack of commitment to ratify the FMP can be explained in terms of “stated and actual” policies. While governments of African countries report that they support the protocol, many of them are concerned that signing the Protocol will lead to an influx of low skilled migrants to their countries. Indeed nearly half of

the SADC countries and all North African states are yet to sign the FMP. The issue of giving up sovereign protection in relation to the mass movement of people has been raised as a fundamental concern which has reduced the commitment of member countries to sign and ratify the protocol (Hirsch, 2021). As shown below by a high state official in Ghana, governments of some countries are concerned that FMP would facilitate massive migration of low skilled persons to their territories:

We have signed it as we are part of the AU and want to be part of these agreements. However, for the ratification, we are still weighing the options carefully. There are concerns that if we ratify this protocol, millions of migrants from other countries will come and take over jobs here. (Interview with a state official in Ghana, 2022).

The above statement indicates that while some countries have signed such protocols so as to demonstrate their commitment to AU agreements, their migration policies are still restrictive and based on fears that the protocol will economically affect their nationals, in terms of competition.

Regional Migration Governance Frameworks

Regional frameworks are used as a blueprint to develop and strengthen migration governance within and among Member States. The Abuja Treaty (1991) established eight Regional Economic Communities (RECs) in Africa which aimed to strengthen regional integration among Member States by removing trade, migration, and commerce barriers, among others. At present, some countries are members of two or three RECs which pushes the countries to find ways of dealing with overlapping commitments in other RECs. Meeting the obligations of each REC, while balancing needs and expectations is a challenge for these states.

Various RECs are at different stages of developing and implementing their regional migration frameworks.

The Economic Community for West African States (ECOWAS) was the first to set the pace by developing the Protocol on Free Movement of Persons, Residence and Establishment (1979). The Protocol was expected to be implemented in three phases. Phase one focused on establishing the “right of entry” by abolishing visas between 1980 and 1985. Phase two was expected to focus on “right of residence” between 1985 and 1990, followed by Phase three which focused on “right of establishment” between 1990 and 1995. The ECOWAS protocol is supported by various supplementary protocols.

Phase one has been fully implemented: all fifteen ECOWAS countries allow nationals of Member states to visa-free entry for up to 90 days. However, free entry is sometimes affected by harassment of travellers at the border by immigration officials who demand unofficial payments, as highlighted below by an ECOWAS migrant interviewed in Ghana as part of the MADE West Africa study:

If we rely on what is in the ECOWAS protocol, we are supposed to freely move to any country of ECOWAS as long as we have ID or passport. However, at every checking point, especially at the immigration, we have to pay...I have fought with them once but I later decided to just pay and forget about the ECOWAS and this free movement protocol (.B.A., Beninois migrant in Ghana, cited by Teye et al., 2019, 1566).

While the harassment at the borders is often attributed to poor salaries and the desire of border officials to raise income through unofficial payments (Awumbila et al., 2014; Yeboah et al., 2021), some border officials interviewed, during the MADE West African study, attributed harassment to lack of travel documents by some migrants, as highlighted below by an immigration officer who was interviewed as part of the MADE West Africa project in Sierra Leone:

People blame us [immigration officers] for the delays at the borders. They accuse us of harassing migrants. I will not say that all our officers behave very well. But there are times that travellers pay bribes because they don't have passports. Some travellers sometimes appear without any travel documents. When we ask them to show their passports, they will say they don't need passport because of free movement protocol. But we need the passports to establish their nationalities. In such cases, they are refused entry and some may offer bribes to our officers (Interview with an immigration officer, Sierra Leone, 23rd September 2017).

The statement above clearly shows how a lack of travel documents affects the implementation of the free movement Protocol. It also highlights migrants' misunderstanding of the requirement for free entry. The implementation of the Protocol is also affected by EU border management bilateral agreements with Niger, which "force" Niger to restrict movement of Africans across some of its governable spaces.

Apart from the challenges associated with the free entry (Phase 1), phases 2 (right of residence), and phase 3 (right of establishment) have not been effectively implemented, largely due to lack of contradictions between national policies and the protocol. The contradictions are due to the desire of some governments to reserve some sectors for their citizens. In Ghana, Nigeria, and Sierra Leone, for instance, there are restrictions which prevent non-nationals from working in the public sector, except under special government arrangements. Immigrants also face challenges obtaining business operation permits. The Ghana Investment Promotion Centre Act, 2013 (ACT 865), for instance, requires wholly foreign-owned businesses and trading companies to have foreign equity of \$500,000USD, and \$1,000,000 US respectively before being allowed to register a business. Given that Ghanaians do not require any capital to register their businesses, the ACT contradicts the ECOWAS protocol, which requires citizens of ECOWAS countries to be treated the same way as nationals of their host countries. Moreover, the Act precludes foreign nationals from operating certain businesses including, for example, supply of retail sachet water, production of exercise books, operation of taxis, retail of finished pharmacy products, operation of taxis, and petty trading (Teye et al., 2019; Yeboah et al., 2020). The investment laws reflect the true intentions (actual policy) of the government while the protocol can be seen as what Smith (1985) terms a “symbolic document” that will not be fully implemented. Similar findings were made in Sierra Leone where some officials think ECOWAS immigrants are taking over jobs, as highlighted below:

Although we have ratified the ECOWAS protocol, we can't sit down for immigrants to take over all the jobs in our country... Migrants are also involved in human trafficking, robberies and other serious crimes (Interview with Immigration officer, Sierra Leone, 25 September 2017)

The above statement also shows that some officials continue to blame migrants for crimes and that also accounts for anti-migrant sentiments.

Aside from the free movement Protocol, ECOWAS has adopted a number of migration related policies. The ECOWAS Common Approach on Migration (2008) is a non-binding framework which seeks to assist Member States to identify priority areas on migration they can focus on and strengthen migration management within the region. The ECOWAS General Convention on Social Security aims to strengthen access to social security for migrants as well as provide guidance on measures that should be in place at Member State level to ensure portability of contributions at the end of employment of a migrant worker within the region. ECOWAS is developing

a regional migration policy framework. The implementation of these frameworks is also affected by lack of commitment on the part of governments and weak resource capacity.

The Common Market for Eastern and Southern Africa (COMESA)'s focus has been on creating a conducive environment where trade between Member States can take place efficiently. The Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements (1984) was meant to remove barriers to free movement among Member States. Later, the Protocol on Free Movement of Persons, Labour Services, the Right of Establishment and Residence (1998) was developed to provide guidelines to Member States on how they can ensue free movement of persons by removing visa barriers (Part II), promoting free movement of labour (Part III) and free movement of services (Part IV). The ratification process has been very slow as only Burundi, Kenya, Rwanda, and Zimbabwe have signed and ratified the Protocol on free movement, while other members such as Seychelles and Mauritius have put in place visa waivers and Zambia issued a visa waiver for nationals on official business. Recently, COMESA has revamped discussion on how to implement the protocol starting with the gazetting of Guidelines for the Movement of Goods and Services across the COMESA Region in 2020 that addressed overlapping commitments between members of the EAC and SADC.

The **East African Community (EAC)** does not have a specific framework on migration, but the Protocol on the East African Community Common Market (2010), popularly known as the Common Market Protocol (CMP), provides guidance on free movement of people and workers between Partner States, namely Kenya, Uganda, United Republic of Tanzania, Rwanda, Burundi, South Sudan, and the Democratic Republic of Congo. Part D of the EAC-CMP focuses on free movement of persons and labour that also includes mutual recognition of qualifications from EAC citizens. Part E outlines the approach to right of establishment and residence. The EAC has also developed its Regional Strategic Framework for e-Immigration (2014) focused on digitising the immigration systems in EAC Partner States to make them more efficient. Partner States have agreed to harmonise their national legal instruments that remove barriers to movement. However, the process has been slow as countries are grappling with the idea of maintaining their sovereignty. Partner states had agreed that they would move together towards regional integration however, Kenya, Rwanda, and Uganda have used the Northern Corridor to remove barriers related to trade and free movement of people. This will be complemented by the EAC e-Immigration Policy (draft) currently being developed to provide further guidance on how to manage the e-immigration system regionally.

The EAC One Stop Border Posts Act (2016) aimed to ease the process for cross border migration recognising that there are cross border traders that conduct businesses across borders. The EAC Gender Policy (2018) includes migration as a priority area recognising that although men dominate migration within the region, women are also on the move. At present, the EAC is developing the regional labour migration policy that would address labour migration within the region and for its citizens in other locations. It is also developing the EAC Council Directive on the Coordination of Social Security Benefits to help partner states to harmonise their social security laws to provide access to facilitate portability of contributions. Finally, the EAC is also developing the EAC Refugee Management Policy to provide a regional approach to forced displacement within the region.

The **Southern African Development Community (SADC)** Protocol on the Facilitation of Movement of Persons (2005) covers all forms of migration from regular and irregular migration between Member States (i.e. Democratic Republic of Congo, United Republic of Tanzania, Angola, Namibia, Zambia, Botswana, Zimbabwe, Mozambique, Eswatini, South Africa, Lesotho, Malawi, Comoros, Madagascar, Mauritius, and Seychelles). Ratification has been very low to the present date as the main hosting Member States such as South African, Botswana, and Namibia are hesitant, fearing that it will lead to a spike of immigrants from neighbouring states (Maunganidze, 2021). South Africa prefers bilateral and small multilateral arrangements on labour migration agreements.

The SADC uses Labour Migration Action Plans (L-MAPs) as a guide for Member States to put measures in place to strengthen labour migration within the region. They run over a course of five years with the first L-MAPs initiated between 2013 and 2015 that led to the development of the Labour Migration Policy Framework (2014). The SADC is currently developing its Regional Migration Policy Framework that would guide Member States to take steps towards developing national migration policies.

The **Intergovernmental Authority on Development (IGAD)** was the first REC to develop a Regional Migration Policy Framework (2012), guided by the AUC's Migration Policy Framework (2006). The framework reflects the region's migration needs at the time, though this focus has recently shifted to climate-induced displacement. Civil and political unrest, as well as the negative impact of climate change, have all been linked to forced displacement in the region. The framework also considers the importance of labour migration which tends to be irregular in nature. The IGAD Migration Action Plan (2015–2020) is the implementation tool of the IGAD-RMPF

guiding the REC and Member States to address gaps within their migration instruments through research and dialogue between Member States and government ministries and departments at national level. Recently, the IGAD developed and endorsed its Protocol on Transhumance (2020) targeted at pastoral and nomadic populations that move between Member States. The IGAD has developed instruments to guide discussions and activities related to migration in the region. This includes the Declaration on Labour, Employment and Labour Migration in the IGAD region (2022) which advocates for the speedy ratification of ILO conventions extending rights to migrants and their families. In 2021 it also finalised and endorsed the Protocol for Free Movement in the IGAD region that would facilitate free movement of labour and people as well as ensure there is right of residence and establishment between and among Member States. At present, the IGAD is in the process of encouraging its Member States to sign and ratify as it will require at least four ratifications to make the protocol active. IGAD in partnership with the ILO have produced the IGAD Guidelines on Rights Based Bilateral Labour Agreements (BLAs) to help Member States to develop BLAs with countries in the Gulf using a rights-based approach IGAD (2022).

The **Economic Community of Central African States (ECCAS)** Member States (consisting of Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda, and Sao Tome and Principe) developed the Protocol on Freedom of Movement and Rights of Establishment of Nationals of Members States (1983) in the same year the REC was established. Article 2 focuses on the removal of barriers for free movement of persons while Article 40 promotes free movement and right of establishment of its citizens across the REC. Efforts to implement the Protocol have been hampered by the political, economic, and environmental instability within the region (Adeola, 2019) which has dominated discourses over the years. Peace and security are essential for free movement to be possible to reduce any possible tensions that may arise.

The **Treaty Establishing the Community of Sahel-Saharan States CEN-SAD (1998)** that brought together Member States (Benin, Burkina Faso, Central African Republic, Chad, the Comoros, Cote d'Ivoire, Djibouti, Egypt, Eritrea, The Gambia, Ghana, Guinea Bissau, Libya, Mali, Mauritius, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo, and Tunisia) within the Sahel and Sub-Saharan Africa to agree principles for the free movement of persons, capital, and right of residence. A regional framework was drafted on Free Movement (Abebe, 2017), however, the framework was never successfully adopted. Free movement between Member States has

been attributed to members of ECOWAS which has already taken measures to remove barriers to mobility (Wood, 2019). Selective Visa Dispensations are extended only to diplomatic passport holders and special envoys to ease their mobility in the 29 Member States (Adeola, 2019). Finally, the **Arab Maghreb Union (AMU)**, established in 1989, has had a long history of facilitating economic and political integration among its Member States (i.e. Algeria, Libya, Mauritania, Morocco, and Tunisia) that could lead to free movement of people, goods, and services. At present, Tunisia allows for free movement of UMA citizens as land borders between Morocco and Algeria have been closed since 1994.

The material presented in this section clearly shows that the implementation record of regional frameworks has been poor. Indeed, only ECOWAS has been able to implement a regional free entry regime. One major reason for the poor implementation of free movement regimes is the fact that, in most cases, countries sign these free movement protocols but are not committed to their implementation due to fears that they would lead to influx of migrants from poor countries which will result in competition with nationals (Teye et al., 2019). As a result, the protocols remain symbolic documents while actual policies entail restriction on the entry and residence of low skilled migrants.

National Policies on Migration

Until recently, many African countries did not have national migration policies, and national legislative instruments were instead used to govern immigration. While cross border labour mobility was encouraged in the colonial era due to demand for labour for mines and plantations in coastal countries, “anti-migrant” narratives which suggested that immigrants were a threat to economic development led to the development of restrictive immigration policies in some countries during the early post-independence era (Teye, 2022a). In West Africa, for instance, there were several mass expulsions of nationals of West African countries. At the same time, actual policies in the early post-independence era sought to portray highly skilled emigrants as unpatriotic citizens, because of brain drain which was affecting the health and education sectors of many African countries (Teye, 2022b).

Within the last decade, a number of African countries have been developing their national policies on migration, many of which seek to harness the benefits of migration for socio-economic development (Teye, 2022b). National migration policies often cover a wide range of migration issues from internal migration, regular and irregular migration to forced displacement,

while considering cross cutting issues such as climate change, development, and health. The instruments adopt a whole-of-government and whole-of-society approach on migration by providing guidance to ministries, departments, and agencies on the key areas of focus for the country. These policies tend to be aligned with the international, continental, regional instruments. National migration policies have been guided by the AUC Migration Policy Framework for Africa (MPFA) which was endorsed by Member States in 2006. Over a 10-year period since the MPFA was in place, only Nigeria (2014), Mali (2014), Ghana (2016), had finalised their national migration policies targeted at national migration policy or a labour migration policy. The MPFA was revised in 2018 to reflect the limitations identified at regional and national level and a concerted effort was put in place by the AUC to popularise the framework to Member States and RECs. Since the revisions of the MPFA, several countries, including Malawi, Sierra Leone, Zambia, and Zimbabwe have started to develop their own national migration policies guided by the MPFA (2018) where the GCM and GCR principles have been mainstreamed. The policies reflect the migration priorities of the countries, however, they all tend to provide guidelines for harnessing migrant remittances for socio-economic development. For instance, the Nigerian national migration policy states that:

Strategies should be developed to encourage Nigerians in the diaspora to invest remittances in social infrastructure, human capital and other economic activities. There is a need to promote the transfer of remittances through efficient formal channels at low transfer cost” (Federal Republic of Nigeria, 2015, 26).

Other countries have developed sectoral migration policies focused on labour migration, refugees, internally displaced persons, and diaspora policies which are targeted towards the interests of the government. These sectoral policies are meant to be guided by the national migration policies providing additional strategic direction adopted by the specific ministries mandated to handle the migrant categories. For instance, Ghana, Sierra Leone, and Zimbabwe have drafted labour migration policies which focus only on international labour migration including migration governance, the protection of migrants and harnessing migration for development. In most countries, efforts to leverage skills transfer and remittances for development are discussed as a key component of national labour migration policies. The Sierra Leonean labour migration policy, for example, captures financial and skills transfer clearly in the statement below:

The State shall provide a sound macro-economic environment to facilitate the efficient flow of remittances....the State shall work with financial institutions to reduce the cost of sending remittances to Sierra Leone. The State shall also adopt programmes to enhance the knowledge of migrant workers and their families regarding the management of remittances” (Government of Sierra Leone, 2018, 33)

Some countries (e.g. Ghana, Malawi; Lesotho, Madagascar, Zambia, and Zimbabwe) have developed diaspora engagement policies that tend to focus on how to effectively engage the diaspora in national development by creating pathways that are more focused on financial remittances for development. Diaspora engagement policies also tend to discuss skills transfers, as shown in the Malawi diaspora policy which states that the government should:

Create safe and trusted communication and knowledge sharing platforms through the development and maintenance of ICT infrastructure and virtual networks;...and develop and strengthen existing initiatives to retain, attract, encourage and support permanent or temporary return migrations of high-level expertise” (Republic of Malawi, 2017, 10).

Some countries have also developed national migration strategies (e.g. Burkina Faso) or embed migration within a population policy as is the case with Mali (ECOWAS, 2015) to ensure that migration issues are factored within existing policies. In most cases, these policies are developed based on technical and financial support by international development partners, including IOM, ILO, ICMPD, and European Union.

Despite these achievements some countries still do not have migration policies. Migration policy implementation has also been poor. In some cases, the governments are not committed to implementing certain aspects of the policy. Despite this limitation, there are regional and continental discussions that bring the Member States together to explore ways of strengthening migration governance such as the training workshop on migration governance. In addition, about 35 African countries have used the IOM’s Migration Governance Indicator Framework (MiGOF) tool to assist them to identify their national and local migration governance in terms of the laws and policies related to migration ensuring they align with the international conventions, continental and regional frameworks (IOM, 2019). The production of Migration Governance Indicator reports at national and local levels gives a bird’s eye view of the key areas that need to be strengthened but also highlights best practices that can provide guidance to other Member

States who are in the process of strengthening their migration governance structures.

Challenges Associated with Implementation of Migration Policies and Frameworks

This chapter has shown that while the adoption of migration governance frameworks has brought migration issues to the limelight of Africa's development, certain constraints impede the implementation of the migration policies across the continent. As demonstrated already, the first challenge relates to lack of political will to implement regional free movement frameworks. The second challenge relates to weak coordination among the different actors responsible for implementation of migration activities. It is worth remarking that enhancing migration governance means strengthening coordination role of diverse stakeholders at the regional, sub-regional, and national levels. While regional cooperation at RECs is improving, more efforts are needed to strengthen mechanisms for more and better information sharing and policy coherence (Le Coz & Pietropolli, 2020). Effective coordination and cooperation between existing institutions and actors within and across regional and national borders remains an important ingredient in efforts to promote better management of migration in Africa. However, SADC, ECOWAS and EAC and other RECs are faced with coordination and cooperation issues with respect to addressing the needs of migrants.

Another challenge stems from a lack of adequate human resource capacity and funds. Studies from various sub-regional communities in Africa (e.g. ECOWAS, SADC) have shown that state institutions responsible for migration governance lack human, technical, and financial resources for effective implementation of migration policies (Teye et al., 2022). Better management of migration will require provision of needed resources, systems, skills, and capacity strengthening for responsible institutions and stakeholders on wide range of issues from migration data, and strategies to addressing the vulnerabilities faced by migrants (Le Coz and Pietropolli, 2020).

Finally, there is a lack of interest and political will on the part of various governments to prioritise migration as critical development issue (Teye et al., 2022). Many countries are unwilling to commit resources or invest in their migration policies over other sectoral policies and this represents a major challenge to implementing existing policies and frameworks. There is therefore a

need to secure the commitment of African governments that they will themselves support, invest, and prioritise and invest in migration policies in their national development planning once external funding or support ceases.

Conclusion

This chapter has analysed migration governance from the African perspective. The chapter has shown that a number of migration frameworks have been adopted at the continental level and some modest gains have been made in terms of their implementation. These include the AU MPFA, the Joint Labour Migration Programme, and the recent AU free movement protocol with the goal of better promoting migration governance and addressing the vulnerabilities faced by migrants on the continent. RECs have also developed various protocols which are aimed at promoting safe, orderly, and regular migration. Consistent with the concept of “stated and actual policies” (Aucoin, 1971; Grainger & Konteh, 2007), the chapter shows that while many African governments have signed regional and sub-regional free movement protocols their actual policies still largely focus on restricting an influx of low skilled immigrants. A number of governments have developed national migration related policies aimed at harnessing the benefits of migration for development. Apart from efforts to leverage remittances for development, the implementation of national level migration policies has been poor due to lack of adequate human resources and funds to effectively coordinate the roles and activities of various stakeholders within the migration governance landscape of Africa (Le Coz and Pietropolli, 2020). Improving migration governance in Africa requires the commitment of governments to invest in migration related activities, capacity training of relevant actors, and better coordination of efforts at all levels of government to ensure better information sharing and investment to address the needs of labour migrants on the continent.

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