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POLICY BRIEF

OPENING UP AFRICA FOR AFRICANS: A PROPOSAL IN SUPPORT OF THE PROTOCOL FOR THE FREE MOVEMENT OF PERSONS

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EXECUTIVE SUMMARY

Regional integration remains a top priority for the African Union (AU). In an effort to foster free movement and promote integration, peace, and unity at the continental level, a common AU passport was launched in 2016 aimed at this end. In 2018, two years after the initiation of the AU passport, the African Continental Free Trade Area (AfCFTA) and the Free Movement of Persons Protocol (FMP) were adopted by the AU as one of the key aims of its Agenda 2063. Unlike its counterpart, the AfCFTA, the FMP Protocol has not been successful in gaining support and enthusiasm from the majority of AU member states. In fact, since its adoption, of the 33 countries that agreed to the proposal, only four member states (Mali, Niger, Rwanda, and Sao Tome and Principe) have fully ratified the Protocol. The much larger nations, such as Algeria, Egypt, Nigeria, South Africa, and Ethiopia, have not yet ratified.[1] The reasons for this lack of enthusiasm have to do with member states' concerns with issues of security, border management, and economic imbalances.[2] Tackling the overt and covert reasons behind the hesitancy of member states to ratify the protocol will be key to moving its agenda forward.

1 Mehari, T. (2019) Barriers to free movement in Africa: How to remove them?, Migration Policy Centre, 1 August 2019, https://blogs.eui.eu/migrationpolicycentre/barriers-free-movement-africa-remove/

2 Hirsch, A. (2021) The African Union's Free Movement of Persons Protocol: Why has it faltered and how can its objectives be achieved? South African Journal of International Affairs, 28:4, 497-517, DOI: 10.1080/10220461.2021.2007788

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1. INTRODUCTION

The FMP is considered one of the key elements at the top of the African Union's (AU) Agenda 2063 for achieving Africa's economic development aims by allowing Africans the right of entry, establishment, and residence in countries on the continent. The protocol aims to promote the free movement of people, including capital goods and services, to foster regional integration and facilitate trade. In addition, the protocol also aims to boost investment, increase remittances within the continent, and promote labour mobility and employment.[3]

Resistance to free movement in Africa has taken place at the continental and regional levels and occurs in both the presence and absence of guiding protocols or treaties. Like many other integration initiatives in Africa, resistance occasionally stems from remnants of colonialism. Some African countries tend to be more open to citizens from countries they were former colonies of than to other African nationals. For example, British citizens can enter South Africa visa-free, but many other African nationals cannot.[4] Similarly, Eurocentrism also contributes to resistance to free movement in Africa. In September 2006, the government of Cape Verde, a member state of the Economic Community of West African States (ECOWAS), indicated its intention to revise the free movement agreement and impose visa requirements on West African travellers.[5] The reported objective was to help it strengthen its ties with the European Union (EU) and make it easier for its citizens to visit and migrate to Europe.[6] Whereas parts of North Africa experience similar closeness to both the Arab and European worlds, which makes them comparatively less open to black African travellers.

Concerning the FMP, the issues raised by some member states include various socio-economic and political factors such as jobs, brain drain, security, and the physical and institutional structure to manage the free movement of persons. These concerns are further compounded by the lack of adequate systems of civil registration and identity documentation in many African states. The Southern African Development Community (SADC) member states and North African countries have been the least receptive to the FMP. For example, a memorandum by the Department of Home Affairs (DHA) available online outlines the collective position of SADC member states regarding the conditions that need to be met before implementation of the FMP. These conditions include a reduction of economic imbalances; peace, security, and stability on the continent; efficient civil registration systems; dependable movement control systems; an interface between these systems and Interpol's red notice system; individual member states' lists of prohibited or undesirable persons; and UN warning lists.[7]

While these conditions are important and would help address some of the challenges related to security and jobs already outlined, we argue that it is unrealistic to expect them all to be met before the FMP can be implemented. This would require extensive time and intensive financial investment before implementation, which could take years. Therefore, the AU and its member states should make efforts to implement a phased plan to address most of these concerns. This policy brief addresses some of the barriers to the advancement of the FMP by member states. Although these factors are numerous and multifaceted, we focus on two key issues that have been widely cited as concerns by member states. These are jobs and security. The following sections provide an in-depth discussion of these important issues before offering policy recommendations to address them. These are jobs and security.

The policy brief also argues that some key positions taken by some member states on

3 Hirsch, A. (2022) African countries are stuck on the free movement of people. How to break the logjam The Conversation, January 16, 2022, https://theconversation.com/african-countries-are-stuck-on-the-free-movement-of-people-how-to-break-the-logjam-174720

4 Foreign travel advice: South Africa Gov. Uk, accessed at https://www.gov.uk/foreign-travel-advice/south-africa/entry-requirements#:~:text=All%20travellers,90%20days%20without%20a%20visa

5 Cape Verde leaves West Africa's free travel union. Afrol, 8 September 2006, accessed at http://www.afrol.com/articles/21176

6 Pina-Delgado, J. (2013). O Cruzamento entre a Política Migratória Cabo-Verdiana para a Europa e a Política Migratória Cabo-Verdiana para a África Ocidental. Entre a África e a Europa: Nação, Estado e Democracia Em Cabo Verde, accessed at https://www.academia.edu/6352938/

7 Government of South Africa, Department of Home Affairs, South African Position on the Implementation of the African Union (AU) Agenda 2062 as it Relates to the Migration, Regional Integration and Africa Passport, November 2017 https://pmg.org.za/files/171128BREIFING_NOTES.docx

the implementation of the FMP are unrealistic given the political nuances of governance and development in Africa. The expectation that African countries should be at comparable levels of development before agreeing to free movement is untenable, given that free movement will be one of the pillars of increased African prosperity. Linked to this is the need to clarify the room for negotiation that is available to countries in the course of implementing the protocol, especially regarding the two main concerns of security and jobs. The final argument that will be put forward is that there is a need to increase public awareness and mobilise public support for the FMP. This should be coupled with clarifying the implementation process outlined in the road map accompanying the protocol to address misunderstandings and concerns that contribute to hesitancy and a lack of enthusiasm for adopting the FMP. The following sections provide an in-depth discussion of these important issues before offering policy recommendations to address them.

2. KEY ISSUES

2.1 Security

Many countries defend their opposition to the AU's FMP by invoking the potential and actual threats presented by organised crime, including human, arms, and drug trafficking, terrorism, and violent extremism. The current transnational insurgencies by non-state Salafi-jihadi organisations such as Islamic State in West Africa Province (ISWAP), Boko Haram in the Lake Chad Basin and Al-Shabaab in East Africa and the Horn of Africa[8] are examples of armed violent extremism that support member states' supposed security concerns. However, the FMP will not cause any security issues that have not already happened, especially when people have the possibility of crossing borders without being noticed. A good illustration of this is what happened in the Mano River region, where armed individuals could cross international borders to take part in civil unrest and/or armed conflicts during the civil wars in Liberia and Sierra Leone.[9] In addition, rebels from Liberia managed to invade Guinea in 2000 despite the existing border control points.[10]

The FMP has the potential to reduce irregular immigration because it will require sophisticated border management and control systems. Criminals will easily be tracked down with the help of a proper civil registration system and a well-established international communication system. Additionally, the FMP has the potential to lower the likelihood of civil war because it gives everyone access to equitable development opportunities while fostering intergroup harmony. One notable instance is Europe, where, after the Second World War, the introduction of freedom of movement was implemented to encourage people to relocate in search of employment. A mobile workforce was expected to bolster the economies of the six founding members of the European Union (EU) and possibly ward off further conflict on the continent. Nearly 60 years later, the method is still very effective and has benefited nations outside the EU. For instance, people from Switzerland and other nations can readily enter and exit the EU without posing any significant security risks.[11]

In Africa, the ECOWAS and the East African Community (EAC) are at the forefront of supporting the FMP.[12] However, they are stuck in the "right of entry" phase. A lack of adequate controls to prevent criminal infiltration, corruption of border agents, and disparate and incompatible national laws and labour policies have all contributed to a significant failure of the next phase, 'the right of residence.' For instance, an attempt to reach a common regional stance on migration in the ECOWAS region in 2008 resulted in little further development.[13] Efforts are being made

8 Okunade, S.K. and Ogunnubi, O., 2019. The African Union Protocol on Free Movement: A panacea to end border porosity? *Journal of African Union Studies*, 8(1), pp.73-91.
9 Dowd, C. and Raleigh, C., 2012. Mapping conflict across Liberia and Sierra Leone. Accord, 2(23), pp.13-8.
10 Gberie, L., 2001. Déstabiliser la Guinée: les diamants, Charles Taylor et la possibilité d'une catastrophe humanitaire de plus grande envergure. Partenariat Afrique Canada, Ottawa, ON, CA.
11 Ibid - Hutt (2016)
12 Okunade and Ogunnubi (2019) n 20.
13 Hirsch, A., 2021. The African Union's Free Movement of Persons Protocol: Why has it faltered and how can its objectives be achieved? South African Journal of International Affairs, 28(4), pp.497-517.

to get around these limitations.

The SADC region is one of the groups that are least receptive to the FMP. As discussed in the introduction, several conditions have been specified for SADC members to ratify the Protocol. While the achievement of some of these conditions remains unrealistic, the AU and its member states can make efforts to address issues related to border security reinforcement and efficient civil registration systems.[14] Despite unquestionably real security risks, the FMP presents several possibilities for economic growth.[15] As even with some challenges, migration typically has a net positive impact, according to a 2016 study on migration governance by the IOM and the Economist Intelligence Unit. Realising this fact, some SADC nations, like Mauritius and Seychelles, have lately implemented measures to waiver the need for short-term visas for all African citizens.[16] Additionally, in February 2023, Botswana reached an agreement with Namibia to abolish passport requirements for entry between the two countries, and plans to discuss a similar agreement with Zimbabwe.

2.2 Jobs

Labour mobility is one of the important elements of the FMP. The FMP contains eleven labour mobility provisions. In particular, Article 14 of the Protocol addresses the issue of employment and states that persons shall have the right to seek and accept employment without any discrimination by any member state in accordance with the laws and policies of the host state.[17] Making it easier for African workers to move from one AU member state to another will have many benefits. It has the potential to reduce unemployment, increase the efficiency of labour markets and help close skill gaps that often require importing labour from outside the continent. There are also some advantages for foreign direct investment into Africa, given that the availability of certain skill classes in prospective locations contributes to decisions to invest or not. Less restrictive mobility rules will also benefit intra-African investment. African entrepreneurs will be able to easily explore new markets, establish enterprises, and create employment in these locations. This will contribute to supporting the AfCFTA's mandate to increase domestic and foreign investment in Africa, as provided for in its Protocol on Investment.[18]

On the other hand, there is strong resistance to free movement in Africa because of the threat it may pose to jobs. This resistance is not unique to Africa and is a recurrent feature in the global discourse on labour mobility. The FMP's provisions may have the effect of creating a single market for talent in Africa, which could lead to competition between local workers and migrant workers. This is already perceived to be the case in South Africa, where there has been an increase in incidents of xenophobic violence due to anti-migrant sentiments both at the local and political leadership levels. Migrants have been blamed for contributing to rising unemployment and taking over jobs that citizens feel should be awarded to South African nationals. Fear of migration-driven unemployment can pose a threat to peace and security if not addressed properly.[19] Although misinformation contributes to this fear, some politicians have tried to use it to their advantage. In 2019, a Kenyan member of parliament, Charles Njagua, made statements that were regarded as inciting violence against Tanzanians and Ugandans for "taking Kenyans' business."

The economic-based pushback against intra-African migration is not new. West Africa has experienced 'alien' or mass expulsion decrees, including in Côte d'Ivoire (1958, 1964), Senegal (1967), Ghana (1969), Sierra Leone (1968), and Guinea Conakry (1968).[20] This was before the

14 Hirsch (2021) n 26.
15 Okunade and Ogunnubi (2019) n 20.
16 S/20/10 (2019) n 18.
17 Ibid - ILO (2022).
18 Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area. Accessed at https://www.tralac.org/documents/resources/cfta/4613-protocol-on-investment-to-the-agreement-establishing-the-afcfta-zero-draft-november-2021/file.html
19 Maru, T.M. (2019) Barriers to the free movement of people. How to remove them? Migration Policy Centre Blog, 1 August 2019, accessed at https://blogs.eui.eu/migrationpolicycentre/barriers-free-movement-africa-remove/
20 Adepoju, A., Boulton, A., and Levin, M. (2010). Promoting Integration Through Mobility: Free Movement Under Ecowas. Refugee Survey Quarterly. 29. 120-144. 10.1093/rsq/hdq032.

ECOWAS treaties and protocols. Treaties, however, do not stop discrimination. Despite the free movement agreement in the Central African Economic and Monetary Community (CEMAC), richer member states such as Gabon and Equatorial Guinea have been accused of discriminatory migration practices. Notwithstanding the challenges, regional entities with free movement arrangements serve as a pool of knowledge and lessons for the FMP at the continental level. Efforts can be made to replicate success and avoid similar failures.

3. POLICY RECOMMENDATIONS

Against the background and key issues discussed above, the following sections provide policy recommendations for the AU and its member states to work together to address issues related to security and jobs to advance progress in the adoption and implementation of the FMP.

1. Security

Concerning security, this policy brief recommends the following:

- The AU and the Regional Economic Communities (RECs) should work together to create strategies and policies that will enhance the management of borders and migratory flows in coordinated and integrated ways and guarantee their successful implementation.
- RECs and their member countries should improve their civil registry systems and enhance not only the integrity of identity documents but also that of border management and law enforcement. Information sharing should be improved and conducted safely and reliably.
- Lessons could be learned from the EU's current border security system, with a focus on smart surveillance and intelligence-sharing apparatuses. Rwanda has shown that it is possible to do this by strengthening its national security, border management, and law enforcement before opening its borders to all Africans.

2. Jobs

Achieving the aims of the AU-FMP regarding jobs will require diverse strategies tailored to national needs and regional particularities. The following actions can be considered in this regard.

- There needs to be a reorientation of Africans toward labour migration and counternarratives backed by data to dispel negative sentiments concerning migrant groups.
- Harmonisation of educational curricula and protocols will ensure professional skills, knowledge, and certification are recognised beyond country borders, as in the example of the West Africa Exams Council, which issues the same certification in both primary and secondary schools in Anglophone West Africa. This was how many Ghanaians found jobs in Nigeria with ease during the migration exodus of the 1970s.
- Member countries should create specific work visas for skilled labourers who can identify with formal business operations on the continent. These visas can be issued on arrival or processed without delay.
- Informal cross-border traders should be addressed by the protocol to ensure that women and young people who seek opportunities across borders are not marginalised.

3. Mobilising public support

A cross-cutting issue that the implementation of the FMP protocol faces is the need to mobilise the support of the African public. It is essential to raise public awareness through a strategic action plan that involves sensitising various stakeholders, promoting respect for migrants' rights and raising awareness about potential issues related to migration. Media and communication entities should collaborate with international organisations to promote best practices, improve migration reporting, and provide resources for in-depth journalism. Encouraging national media partnerships and

providing regularly updated glossaries and handbooks on migration reporting can further enhance coverage.

Involving young people, researchers and civil society organisations is crucial to accelerate FMP ratification and implementation. Forming teams of young champions, developing comprehensive advocacy and communication strategies and promoting research on migration can help achieve this aim. Security organisations should also be engaged, with platforms for dialogue established between government representatives, the Pan African Parliament, the AU Parliament and the Commission on Trade, Customs, and Immigration to facilitate FMP ratification. By fostering collaboration and communication among various stakeholders, it is possible to raise awareness, promote understanding and facilitate the successful implementation of the FMP across Africa.

At the same time, increased public awareness can be exploited by political opportunists leading to disinterest within the national entities and inadequate resources to support the awareness campaigns. To mitigate these risks, stakeholders should identify and counter harmful narratives early on, using data and storytelling to humanise intra-African migrants. Sensitisation efforts should target both citizens and government officials to build advocacy coalitions around the FMP. Lastly, innovative ideas and strategic partnerships should be employed to execute cost-effective campaigns that reach diverse demographics.

As with all recommendations unintended risks or challenges may result. For example, African states have diverse interests, political regimes, cultures and challenges that pose risks to collaborative security mechanisms and governance administration. As an example, building centralised surveillance systems within regions could result in countries sharing classified security information with allies, which may result in regime change. To mitigate these risks, African governments will have to respect sovereignty and self-determination while fostering 'African solutions' by funding their initiatives and programmes. This requires strengthening state institutions, reducing corruption, improving justice systems, and upholding the principle of non-interference.

4. CONCLUSION

As discussed throughout this policy brief, the FMP has more opportunities than threats. The security and job concerns that have been the main reasons for some AU member states' reluctance to adopt the protocol are challenges that need to be addressed. These challenges, however, require time, willingness, and the participation of all AU member states. Patterns observed in the literature review include the fact that smaller economic groups may be able to move forward quickly in implementing the FMP, especially when their interests are aligned. The EAC serves as an illustration of this because of how quickly they have advanced with only six member countries. The AU and member states must learn from the successes and failures of the RECs to move forward with the FMP. With the full cooperation of member states, the AU and the RECs should take into account the recommendations made in this policy brief. Keeping in mind that member states do not have equal resources, it will be more important to plan for a deliberate process that would allow the least developed countries to progressively meet the necessary conditions. Adopting the FMP does not mean that borders will be immediately opened. It will instead allow countries to work together towards the reinforcement of immigration policies and law enforcement. Therefore, collaboartion and communication among member states and stakeholders is essential to promote a better understanding of the FMP and its benefits for Africa.

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