

**REPORT ON TRAINING WORKSHOP ON “IMPLEMENTATION OF THE ECOWAS FREE
MOVEMENT PROTOCOL”**



11-12 January 2018

Capital View Hotel, Koforidua

Submitted by Centre for Migration Studies

Executive Summary

The two-days training workshop which was held from 11-12 January 2018 at the Capital View Hotel in Koforidua, Ghana, attracted 15 high ranking and middle-level officials from International Organizations, Ministries, Departments and Agencies such as the Ghana Immigration Service; Ghana Revenue Authority, Customs Division; Ministry of Foreign Affairs and Regional Integration; Ministry of Gender, Children and Social Protection; Labor Department; the Media; the University of Ghana; Civil Society Groups; and Migration Associations.

The ultimate objective of this two day workshop was to promote intra-regional mobility within the ECOWAS region – by enhancing the capacity of participants to address the obstacles to the full implementation of the ECOWAS Free Movement Protocol in Ghana. The workshop also sought to increase the knowledge of participants on regional integration, intra-regional migration and their linkages to development in the ECOWAS region. In the wake of recent developments on the migration front in Africa and Ghana in particular, the timeliness of the workshop could not be more precise and this was widely acknowledged by the participants. The workshop consisted of six sessions in total. While the sessions on the first day of the workshop provided broad background to concepts and knowledge on intra-regional patterns of migration, the sessions on the second day focused on the gaps in the implementation of the ECOWAS Free Movement Protocol and Protection of the rights of migrants in ECOWAS countries. All the sessions generated lively and insightful discussion as presenters shared their knowledge while participants shared practical experiences and raised questions about pertinent issues in the implementation of the ECOWAS Free Movement Protocol. Participants showed great appreciation for the opportunity to gain a better understanding of the protocol and indicated strong interest in assisting with its implementation in their respective organizations. Following are the summaries of the opening remarks and sessions covered in the workshop.

Opening remarks made at the workshop

Prof. Mariama Awumbila set the ball rolling by welcoming participants and noted the timeliness of the workshop in the wake of recent developments on the migration front in Africa, particularly highlighting



recent news on slavery in Libya which involved migrants, and the Fulani conflict with local farmers in the Agogo area of Ghana.

She gave an overview of the MADE project and indicated that it is funded by the European Union and coordinated by the ICMC and funded by the European Union. She observed that while migration can enhance socioeconomic development, it required proper governance for this to be achieved. Her remarks emphasized the five components around which MADE activities were organized, namely research, capacity building; inter-regional multi-stakeholder dialogues; SDG progress assessment, particularly goal 10.7 which seeks orderly, safe, regular and responsible migration and mobility; and Sub-grant to implement advocacy programs.

She encouraged participants to feel free to raise questions and share their experiences in the course of the presentations.

Prof Mariama Awumbila delivering the opening address

Summary of the principal observations made during the sessions of the workshop on Day 1

Session 1: Migration, Regional integration and development.

This session was presented by Prof. Joseph Teye on Migration, regional integration and development. The goal was to introduce participants to key concepts and help them to appreciate the complex linkages between them. The three key concepts of migration, regional integration and development were highlighted in this session. The key issues discussed are highlighted below:

- a. **Migration:** Participants shared their views on the concept of migration. The facilitator pointed out that the length of stay is a key aspect of defining migration. It however became evident that different countries in the ECOWAS use different lengths of stay. For instance, the participant from the Ghana Statistical Service indicated that they normally use six months. Prof. Teye pointed out that in some situations three months is used to capture seasonal migration. It was agreed that this lack of consensus on the length of stay used to define migration across the ECOWAS was problematic and requires harmonization. It was pointed out that while migration involves movement across boundaries, these boundaries are contested, especially in West Africa, because of their artificial nature. Boundaries are often disputed even within countries and become highly

problematic to define at the international level. A lawyer who works with the Ghana Immigration Service, pointed out that persons living within 5km of the border in ECOWAS are considered 'common citizens' because such persons are often oblivious to the official boundary lines and perform economic and social functions across boundaries. Establishing the 5km zone however depends on the proper demarcation of the boundary in the first place and that is highly challenging.

Some migration terminologies were also discussed. These include the concepts of migrant worker, international migration, diaspora, transnationalism. brain drain, brain gain and brain waste.



A significant discussion ensued on the notion of brain waste, which was conceptualized as the situation in which trained professionals take up jobs that are not commensurate with their training and skill. It was however observed that in certain situations brain waste may be intentional, particularly when individuals present lower-level certificates in order to gain employment at a lower rank with the hope of eventually utilizing their higher-level certificate in the future for promotion. In other situations, highly skilled professionals may take up lower level jobs to supplement their income or retired university Professors may take to farming.

Prof Joseph Teye giving his lecture

- b. Regional integration was also discussed extensively with the presenter observing that there are implications for sovereignty of the countries involved. The presentation also covered a number of integration models, which include preferential trade, the first order and the lowest level of regional integration creates a trading bloc that provides participating countries preferential access to certain products at reduced tariff without completely eliminating them. Customs Union, which is another model of integration creates a common external tariffs system. There is also the common single market model of integration which involves free movement of capital and others. The economic and monetary union model involves the creation of a single bank and currency. The most complex and highly problematic model of integration is the complete political integration and it was noted that ECOWAS was very far from achieving this kind of integration.

Several benefits for regional integration were highlighted to include economic benefits due to the creation of a larger market and free trade, as well as social and political benefits. Trade liberalization however remains one of the prickly issues in achieving regional integration in ECOWAS. A participant with the Customs Division of the Ghana Revenue Authority, for instance

pointed out that, dubious practices by entrepreneurs are to blame for foreign products parading with 'Made in Ghana' labels, all in the bid to avoid taxes.

- c. The concept of development was also traced from its focus primarily on economic growth, as measured by the size of a country's gross domestic product (GDP) in the 1950s/1960s, to the more contemporary conceptualization as human development, focused on improving the freedoms, opportunities and well-being of individuals. It was observed that the way development is conceptualized has implications for the perceived contribution of migration to a country's development. For most economists who perceive development from the standpoint of economic growth, the benefits of migration are discussed in relation to the flow and use of remittances for productive ventures. On the other hand, social scientists who use the human development definition are likely to point to the contributions of migration to education, health and others. After an exhaustive discussion, it was generally agreed that conceptualizing development is complicated and measuring the effects of migration is difficult.
- d. Two groups were created and assigned topical issues to discuss. Group 1 focused on the positive and negative effects of migration on the development of source countries and reported that remittances, skills transfer and investment constituted some of the benefits accruing to source countries. The use of remittances for consumption was prominently discussed with some participants arguing against the perception that consumption does not significantly contribute to development. Some of the negative effects of migration for source countries included labor shortage, brain drain and market size reduction. Group 2 discussed the developmental impact of migration on receiving countries and noted that while migration increases the pool of talented professionals, investment, and creates larger market and social understanding among others, receiving countries experience political and cultural instability, insecurity, pressure on employment and housing following excess demand over supply, engagement of migrants in businesses reserved for the local population, as evidenced by the recent call by the Ghana Union of Traders Association (GUTA) for government to halt the engagement of foreigners in the retail business.

Session 2: Patterns and impacts of intra-regional migration in the ECOWAS region.

This session was presented by Prof. Mariama Awumbila who introduced participants to the history and patterns of intra-regional migration in ECOWAS. The general background, context and complexities of migration in the sub-region were covered. Four phases of migration in the ECOWAS region could be distinguished from the presentation.

The first phase was identified as the pre-colonial phase and was characterized by borderless migration. Migration was mainly due to security and economic reasons during this phase. Fixed borders were, however, introduced in the colonial phase and this combined with the export-led development of cocoa and mining regions in the southern parts of the ECOWAS zone to produce a north-south migration trend. The migration in this phase was male dominated, with women mainly migrating only to join their husbands. A participant sought clarification on the importance of education in migration during this phase

and it was explained that while education was important in the post-colonial and contemporary phases, it was not a major factor for migration in the colonial phase. In the post-colonial phase, migration became more complex in terms of volume and direction of flows but it was mostly tied to developments in the region. For instance, the changing economic and political fortunes of a number of countries meant that some migrant receiving countries became sending countries and vice-versa. Moreover, it was explained that in contemporary times, poverty and environmental change have played key roles in shaping migration. Also, return migration has increased, as has transit migration. A participant observed that retirement migration is also occurring, particularly for civil servants, and more studies need to be done to understand the trends and patterns of this phenomenon. Two major issues that generated a lot of discussion were independent female migration and independent child migration. It was observed that children as young as 11 years have been moving independently both internally and in some cases across boundaries in the ECOWAS region. Participants from the Ministry of Gender, Children and Social Protection and the Ghana Immigration Service shared various experiences on this issue.

Citing secondary data from the 15 countries of the ECOWAS, Prof. Awumbila noted that the general pattern of migration is one in which destinations and origins are intertwined, and even though a number of reasons account for this, economic reasons dominate. It was, however, observed that contrary to the perception of a large South-North migration flows, available data shows that it accounts for only about 25 per cent of all migrant flows and that about 84 per cent of migration flows occur within the West African region. Countries in the ECOWAS hosting the largest number of migrants include Cote d'Ivoire, Ghana, Nigeria and the Gambia, with Gambia hosting the largest percentage of migrants compared to its population size. Burkina Faso, Liberia, Sierra Leone and Mali were noted to be the countries with the largest emigrant population. Notwithstanding, it was generally observed that most countries in the ECOWAS are senders and receivers of migrants. Proximity, language, colonial legacy and ethnic ties were noted as key to the pattern of flows observed. Contrary to perceptions, there was no evidence that labor migrants necessarily moved to the most prosperous countries in West Africa.

Issues that generated a lot of discussion during the session included the large pool of labor migrants in the face of low demand, lack of a functional labor market information system, problems associated with movement, particularly across land borders, with migrants subjected to extortion and harassment. On this point the participant from the Ministry of Gender, Children and Social Protection noted the preponderance of gender discrimination, with some female cross-border traders being sexually harassed. A Customs Officer present, however, countered that border agents were rather harassed by female migrants seeking to evade duties. Additional issues discussed were the cost of travel, delays and uncertainties surrounding aviation, unresolved Anglophone/Francophone issues with the proper form of identification required for border crossing. Participants also shared their experiences with the numerous official and unofficial land barriers in various countries in the ECOWAS and noted that even though improvements have been made and the number of check points have been reduced significantly compared to a few years ago, a lot still remains to be done. A participant with the Ghana Immigration Service, indicated that an appraisal was recently completed on the barriers and the customs barriers have been reduced to four, with significant progress made at the Aflao and Paga borders.

Session 3: The ECOWAS Protocol on Free Movement and related instruments

The last session for day 1 was on the ECOWAS Free Movement Protocol and was facilitated by Prof. Joseph Teye. He traced the history of the Protocol from 1975 when it was adopted to give community citizenship to residents of member countries of the ECOWAS, through 1979 when the free movement of persons was adopted, to more recent emphasis on the Right of Entry, Residence and Establishment. The revised protocol allows 90 days free residence once a migrant presents an appropriate travel document or identification card. A participant from Ghana Immigration Service, however reiterated the argument that ECOWAS defines appropriate identification as a document that is machine readable and not the Card Identite often carried by migrants from Francophone countries. Francophone countries, he pointed out, seem to be relying on the 1979 interpretation of the protocol, while countries like Ghana and Nigeria adhere to current international law that recognizes only machine-readable identification. He further observed that even though in principle ECOWAS is tasked with providing funding for countries to adapt machine readable identification, a lot remains to be done to establish a common acceptable identification for all member countries.

In addition to the Free Movement Protocol, Prof. Teye alluded to the existence of supplementary protocols in 1985, 1986 and 1989 that deal with dispute resolution. In 2008, non-binding guidelines, referred to as the 'common approach' was introduced to deal with a number of unresolved issues. On the question of how well ECOWAS has done with the implementation of the protocol, participants unanimously agreed that while a lot has been achieved, more remains to be done. For instance, the media expert present noted the lack of synergy and collaboration between agencies, and the participant with Port Health Authority concurred by observing that there are a lot of challenges but some progress has been made in the last three years. The participant from Borderless Alliance also stated that the Elubo border was the worse and the Aflao border was the best and the participant from the Ghana Immigration Service, lawyer Nantuo, opined that the implementation is somehow good particularly if compared with what ECOWAS would have looked like without the protocol. He noted that the ECOWAS region is the best in Africa and that is affirmed by the increased funding from the EU, even though ECOWAS is not really using the funding and there is a lot of mess when it comes to disbursement of funds.

Prof. Teye added that all the 15 countries have ratified the protocol although there are a number of complications. He noted that member countries often refused admission by invoking the public order and security clause. Additionally, he observed that compared to the rights of entry and residence, the implementation of the right of establishment is the element of the protocol that is most challenged, with countries such as Ghana often blamed for not allowing ECOWAS migrants to work in certain sectors of the economy. The problem he noted stems from the fact that while the Protocol perceives members of the ECOWAS region as citizens, individual countries view them as foreigners. In effect, there are a number of national laws that contradict the ECOWAS protocol and require harmonization for better implementation. Moreover, work permit problems still persist as proof is still required that no local can fill a position before a non-local could be considered. Indeed, because of their large economies, Ghana and Nigeria are blamed the most for this discriminatory practice and for imposing work permit quotas. Furthermore, procedures for permit application varies across the ECOWAS region with different fees required in different countries. This impacts permit application negatively as many migrants are poor.

Summary of the principal observations made during the sessions of the workshop on Day 2

The second day of the workshop began with a recap of the key points of discussion from day 1 of the workshop, which was presented by Dr. Ebenezer Nikoi, a participant. This was followed by the presentation of session 4 by Prof. Joseph Teye.

Session 4: Challenges of the ECOWAS Free Movement Protocol

This session sought to identify the challenges associated with implementation of the ECOWAS Free Movement Protocol and discussing strategies for dealing with such challenges. This helped participants to identify good and bad practices.

Prof. Awumbila began by asking whether participants thought movement in the ECOWAS region is free. This generated a number of responses from participants. A Ghana Immigration Service participant stationed at the Akanu border stated that movement is largely free but significant differences existed between Anglophone and Francophone countries in terms of form of the identification required for border crossing, namely machine readable at Anglophone borders versus Card Identite at Francophone borders. Others pointed out that even though the protocol sanctions free entry, it is still subject to the laws of the various countries in the ECOWAS, so that admission is still problematic. This is partly due to the discretion exercised by border agents on the admissibility of migrants. A lawyer from the Ghana Immigration Service added that no law is absolute because even international laws have to be domesticated in order to make them effective. Ghana's Chief Labor officer who was there as a participant noted that technology was critical to removing the human interface that impedes free movement in the ECOWAS region. It was however quickly pointed out that implementation of technology at the border would be challenging since many borders lack power supply.

Another challenge shared by an Immigration Officer at the Akanu border was the sheer volume of travelers that show up at the border without any form of document for identification, which makes processing them extremely difficult. The official with Port Health also observed that disease vector transmission in the ECOWAS region is problematic and suggested education of migrants to curtail disease transmission in the region. There was however consensus that border officials are often not interested in the vaccination per se but the money they can extort from migrants who do not possess the vaccination card. Thus, even though article 4 is supposed to help protect the population, its arbitrary application has rather made it a challenge to the implementation of the protocol. Border harassment and extortion of migrants were therefore discussed at length, as were other challenges such as the lack of an integrated border management system, lack of adequate knowledge of the protocol among migrants and locals at the district and town levels, migrant participation in petty trading which creates tension with the local population, conflicts and general insecurity, and poor governance of trans-human movements among many others.

It was acknowledged that many of these issues varied by country and a number of suggestions were made, including logistics provision for the borders, joint training and fora, encouragement of private initiatives like Borderless Alliance to help with migrant complains, harmonization of documents, training of lower ranking officials who deal with migrants daily by incorporating elements of this workshop into their curriculum, establishment of the proposed national migration commission, encouragement of relevant agencies, especially the Ministry of the Interior, to participate in training programs, and language immersion programs.

Session 5: Enhancing the developmental impacts of intra-regional migration

After introducing the topic, the facilitator, Prof Teye, created three groups and each was tasked to deliberate on specific issues for 20 minutes. Group 1 focused on the challenges and strategies that can be



adopted for mobilizing and enhancing the developmental impact of remittances. Group 2 worked on the challenges and strategies for promoting the transfer of skills from migrants in the ECOWAS region. Group 3 was tasked to identify the challenges and strategies to be adopted for promoting migrant-led investment in the ECOWAS region. Each group was given 7 minutes to report the key points of their discussion.

The report from Group 1 was presented by the IOM participant, who pointed out challenges that included the cost of money transfers both locally and internationally.

A participant presenting the report of one of the groups

Group 1 further noted that the high cost of money transfers from Europe and North America to Africa, as well as exchange rate problems means that the size of the funds remitted from abroad is significantly diminished. Other challenges identified included the use of informal means of sending remittances, undocumented status of many migrants, limited access points for receiving remittances, and the lack of data and tools for collecting and managing remittance data. Strategies suggested by the group included converting recipients into account holders as a large number of remittance recipients are unbanked, introducing recipients to the products of the banks through which they receive their remittances, with the hope that a number of them will invest part of the remittance. The government's diaspora bond was also lauded, while other suggestions centered on inter-governmental agreements to reduce the cost of remittances.

Prof. Teye remarked that the relationship between remittances and development is contested with some arguing that remittances make recipients lazy while others contend that remittances are good for development if properly managed. He further noted that remittances may even end once all the dependents of the migrant unite with him/her abroad. Moreover, Prof. Teye observed that the cost of remittances goes beyond the fees paid to send the money to include hidden charges due to exchange rate manipulation and loss of the sentimental value gain from receiving the hard currency.

The report of group 3 on migrant investment was presented by the Ministry of Gender, Children and Social Protection participant. Some of the challenges highlighted included documentation, perceptions of poor economic management by the host countries, particularly corruption and inflation, migrant-host tensions in particular investment sectors, poor accounting procedures and lack of information flow and knowledge of potential investors. For strategies, the group noted the implementation of laws to clarify investment, reducing political interference, need to document irregular migrants, education of the local population to

understand the value and contribution of migrants to socioeconomic development, data sharing among agencies and reducing corruption. Prof. Teye added the need for businesses to encourage investment, leveraging the knowledge and expertise of emigrants for negotiating bilateral deals with foreign governments, as well as resolving land acquisition challenges that impact investment.

The report from group 2 was presented by the Borderless Alliance participant and dealt with challenges and strategies for promoting skills transfer. For challenges, emphasis was placed on language barrier, particularly for migrants moving from Anglophone to Francophone or Lusophone countries and vice-versa. A number of experiences were shared by participants who lost opportunities in one country or another because of the lack of language skills. There was a consensus that language immersion programs should be promoted at all levels to increase the migrants skills transfer opportunities for economic development in the ECOWAS region. Other challenges underscored were the differences in the educational systems of member countries and the need for harmonization of certificates. Also mentioned were fees for permit, lack of Social Security portability and harmonization across West Africa, lack of a labor information system, undue delays at entry points due to differences in hours of operation across countries in the region, and lack of uniformity in the proper identification required at border crossings, with Francophone countries only requiring ‘Card Identite’ and Anglophone countries, particularly Ghana requiring ‘machine readable’ forms of identity.

Proposed strategies for promoting skills transfer in the region included harmonization of professional certification, promotion of exchange programs, development of a labor market information system, political stability, social security portability and harmonization, and easy creation of bank accounts. Prof. Teye noted that ECOWAS has guidelines for Social Security portability but implementation remains problematic. He was also of the view that efforts to encourage short skills transfer must go hand in hand with the promotion of language skills development.

Session 6: Protection of the rights of migrants in ECOWAS countries

The focus of the discussion for the last session was the protection of the rights of migrants in ECOWAS countries and this was led by Prof. Teye. Migrant stereotyping and the different forms of violation were covered in this session. Recommended protections included education of employers and the general population on the rights of migrants and the need to accept them, training programs for officials, establishment of complain mechanisms, education of the services to deal appropriately with migrants in detention, as well as the education of migrants not only on their rights but also responsibilities in destination countries.

Closing ceremony

A short closing ceremony was organized after session 6. Prof. Mariama Awumbila thanked the participants for participating actively and informed them about planned activities which they will be invited to take part in. A participant thanked the Centre for Migration Studies for the excellent organization of the workshop. Participants completed evaluation forms.

Conclusion

The training workshop covered a number of topical issues, particularly highlighting the ECOWAS Free Movement Protocol, challenges being confronted in its implementation, strategies for enhancing the developmental impact of migration in West Africa and the rights of migrants. It was generally agreed that while a lot has been achieved, a lot more remains to be done to fully implement the protocol. The right to establishment was identified as the component of the protocol that has been least implemented. Suggestions were made to improve implementation by educating migrants, the local population and lower level officials at the district and town levels, as well as establishing labor and migrant information systems, harmonizing permit requirements and equipping relevant agencies with requisite logistics for effective implementation of the protocol. From the foregoing, it can safely be concluded that the training workshop achieved its aims.