



Freedom of Movement in West Africa: A snap shot of the history and future of regulating mobility

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About MigChoice

MIGCHOICE: Testing the impact of interventions on migration decision-making in West Africa

African migration is overwhelmingly intra-continental. Within West Africa most migrants move within the sub-region, including longstanding traditions of seasonal and temporary migration between inland areas and coastal areas. Migration further afield has increasingly been problematised, but there is little research which aims to better understand the relationship between poverty, livelihoods and mobility in the region. The MIGCHOICE study seeks to understand how development interventions at a range of scales impact the choices people make to move or stay put within ECOWAS and beyond. The project asks **how and to what extent development interventions affect people's migration aspirations, decisions and movement?** MigChoice is an

international collaboration of African and European academics and is funded by DFID in conjunction with IOM.

Why this Policy Brief?

The aim of this Policy Brief is to provide some historical context to development interventions related to migration since independence in three Upper Guinean Coast countries. Contextualising policy-making and programming not just in contemporary time but also with attention to the past is important as the shape of any decision in the present and for the future is at least in part conditioned by the knowledges created through history – it matters how we narrate the past, how the world was understood previously and what was said about it at the time.

Our evidence

In this Policy Brief, we draw on archival and documentary material covering the period

from independence to the contemporary moment that are publicly available. We also draw on interview-based research material. Interviews were undertaken in February 2020 in Abuja, Nigeria and were conducted with professionals within the

ECOWAS Commission, IOM, ILO and ICMPD. Interviews were conducted via Skype with IOM and ILO staff in Geneva. The focus is on ECOWAS-level policy more broadly and on policy of The Gambia, Guinea and Senegal concretely



Key messages

1. There is a rich history of discourse and policy around migration and mobility in West Africa, dating to before the colonial era
2. The focus on migration today is not necessarily consistent with, or conducive to regional integration, development, or freedom of movement practices;
3. Regulation of migration, if it is to be constructive, needs to go beyond cherry-picking the few and making the many immobile;
4. Freedom of movement can be both a principle and a measure but needs to be actively engaged with by governments in the region, rather than responding to donor interests.

Integrating migration policy into national law

National policies on migration in West Africa are under active development. In countries such as Guinea, Senegal and The Gambia they have been formulated and already passed through at least one, if not more, rounds of validation. These policies, however, have not been finalised and adopted yet. It is as if countries are 'dragging their feet'. Since many countries of the Global South, including ECOWAS countries, have keenly promoted the possibilities of the Global Compact for Safe, Orderly and Regular Migration this cannot be explained by a general unwillingness to engage in doctrine formation on migration. What is behind

this hesitance to adopt formally? And what ways forward might there be for migration policy in the region?



Migration policy development: current efforts

In the past two decades, there have been significant efforts to rekindle regional processes on migration in the West Africa (ECOWAS) region

MIDWA, the Migration Dialogue for West Africa is a regional consultative migration

process created in 2001. According to professionals working at the regional level, although the process came to a promising start, it then faltered somewhat without the impetus of donor funding and energy. Once funding and energy was injected, it successfully led to Member States of the Economic Community of West African States (ECOWAS) adopting a common approach to migration in 2008. This success came at the same time as ECOWAS had transformed institutionally from Secretariat to Commission. The aim of this transformation was to move from being an exclusively diplomatic organization to a strengthening of bureaucratic structure with implementation capacity in aid of regional integration. The hope, on part of donors and ECOWAS officials, was to achieve the implementation of freedom of movement protocols and thus lead to development.

The ECOWAS common approach to migration of 2008 (although it reflects language imposed by the donor community) built on the statement of freedom of movement adopted at its founding in the 1970s

The preamble to the Treaty establishing ECOWAS, which came into force in 1975 affirms

‘as the ultimate objective of their efforts accelerated and sustained economic development of their states and the creation of a homogeneous society, leading to the unity of the countries of West Africa, by the elimination of all types of obstacles to the free movement of goods, capital and persons’.

Based on this affirmation, Article 2(2) set out what this means more practically. The revised version of 1993, which reaffirmed the treaty – much like in the European Union at that point – contextualised and limited the notion of freedom of

movement to the establishment of a common market (Article 3(2)d)iii)). The three protocols on entry rights, residence and establishment form the legal parameters of what freedom of movement means and how it should be implemented in ECOWAS countries. The right to leave is not separately dealt with, and challenges around this right will be briefly alluded to below.

Donors, International Organizations and the ECOWAS: exercises in policy-making

Not long after these changes and regional policy development in ECOWAS, the European Union provided considerable funding, in partnership with ECOWAS, to implement a programme of *Support to Free Movement of Persons and Migration in West Africa* (FMM). The funding began in 2013 and is due to end in 2020 with a full handover to ECOWAS. IOM, ILO and the ICMPD are tasked with implementing the FMM based on the steering of the ECOWAS Commission. Not only was there to be capacity building for the ECOWAS to lead intra-regional policy-making but national institutions and local authorities of ECOWAS countries were to be strengthened as well.

The activities of the FMM have changed quite considerably over time, from a focus on border management to other areas relevant to the region, such as development and labour. Gender was introduced late and not necessarily picked up as forcefully as it might have been.



Migration policy: the historical background

ECOWAS' founding principles reflect pre-colonial practices of mobility

During the colonial period, Europeans drew on and made use of traditional practices of production for trade. This was trade going beyond immediate subsistence, which is a more recent and reductive narrative about West Africa and has developed in part because of the colonisers narrow (ab)use for their own economic purposes. Colonisers also made use of mobility practices, both coerced and voluntary, established before and during the 'Age of Atlantic trade' within and out of the region (see for example Austin, 2010¹). What is important here is that colonisers found structures of trade and mobility they could draw on and exploit. They thus expanded the geographical reach, which already went far during pre-colonial times, further into globalised exchanges, plunder and extraction. Colonization

'created new territory-related, proto-national points of reference [and] fostered trans-colonial relationships that have given rise to specific transnational identifications and networks' (Knörr and Kohl, 2016: 11²).

In this way the countries of the (Northern) Upper Guinean Coast were integrated into global networks, which had been mobile for centuries (Knörr and Kohl, 2016:8). It is mobility that characterises the region, hence the importance of the founding principle of freedom of movement and an

attempt to conceptualise and practice it in a more self-determined manner.

During the colonial period, trade and movement within the region and beyond was institutionalised as part of the colonial project

Majumdar (2007:x³) introduces the dynamics that set the tone for Africa and more specifically the Northern Upper Guinea Coast before the end of colonialism by describing how

'The early voyages of discovery and opportunities for enrichment through trade and plunder were intimately linked with the development of capitalism in Europe. [...] Thereafter, the development of mercantile and then industrial and finance capitalism was inextricably intertwined with the drive to gain control of the resources of as much of the rest of the globe as was feasible'.

Or in short: '[...in] Senegal the objective is the same [as in other places colonisers imposed their presence on]: to dominate the country with the least possible cost and draw through commerce the greatest advantages possible' (Faidherbe, 1859⁴). Whilst people of the region used mobility successfully as a form of anti-colonial resistance, which European administrators tried to control but failed – in particular in the hinterland and areas where the introduction of new technologies did not reach, mobility was wanted and institutionalised by the colonial powers and became the vehicle and driver of the goal of least cost/greatest advantage.

¹ Austin, G. (2010) African economic development and colonial legacies. *Revue internationale de politique de développement* 1(1): 11-32

² Knörr, J. and Kohl, C. eds., 2016. *The Upper Guinea coast in global perspective* (Vol. 12). Berghahn Books.

³ Majumdar, M. A. (2007) *Postcoloniality – The French Dimension* New York: Berghahn Books

⁴ Faidherbe, Louis, (14. 10. 1859) in Archives Nationales, Section d'Outre-Mer (A.N.S.O.M.), In *Sénégal I*, 46(a), 'Gouverneur du Sénégal et dépendances à Son Excellence le Ministre de l'Algérie et des colonies', St Louis

There is a question then about what kind of mobility is regulated?

In the immediate wake of independence the structures of exchange, first and foremost economic and educational, changed little – including with movement between Senegal and The Gambia respectively and the European continent. In Senegal, for example, laws about movement between Senegal and France signed on the 5th of March 1960 and renegotiated in 1975 broadly regulate what was practiced before. Additions were laws establishing Senegalese citizenship in 1961; as well as law 71-10 on admissions of 25th of January 1971 and its protocol for application 71-860 of 28 June 1971. Otherwise most policy and law and their respective interventions into practice do not focus on people mobility beyond the exchanges established by the colonisers. This is also reflected in material that was analysed for The Gambia⁵. Even in Guinea, which had chosen to break all relations with France, many of the structures and approaches (e.g. in the extractive industries as well as public administration) remained as they had been under colonial rule (see for example Ordonnance No 42 MEN of 5 August 1959 regulating education). The change here was in the restricted destinations to which Guineans were allowed to go for study or trade and the exclusions that led to forced displacement, in particular between the 1960s and the 1980s.

Our research shows that all three countries engaged in discussions and policy-making on rural-urban changes to production, employment and education in the decades following independence, in which economic growth was respectable until between 1975 and 1978 when structural

adjustment interventions were imposed. People in the Senegal and The Gambia have not been restricted in their right to leave. Guineans have had that right undermined. Overall, documents show that mobility in the region was thriving for good and bad reasons.



Migration policy, structural adjustment and external interventions

Structural Adjustment was a turning point

Structural adjustment in the 1980s, which introduced a fundamental shift from administrative to market means of resource allocation without paying any attention to historicity or situatedness, had a massive effect on ECOWAS countries. In Guinea this was more devastating than in our other two countries, as Guinea could not rely on 'the maintenance of a convertible currency [that] had enabled governments to avoid some of the supplementary price and quantity controls which had increasingly been imposed' (Austin, 2010:13). This time also saw the introduction of random and often violent border closures and expulsions in the region. Beyond the effects of structural adjustment on the direct lives of the people, it had consequences for how doctrine is formed and negotiated:

1. Early data analysis of Guinean documents published by the government at the time indicates that

⁵ See e.g. People's Progressive Party (PPP) (1992) *The Voice of the People: Story of PPP in 1959-1989*

the respective governments of Guinea since have been willing to accept the ideas and language of which ever was dominant at the time, taking formal regulation as a starting point for negotiation, rather than as the finished product (for example in Kaba, n.d⁶).

2. In the longer term, structural adjustment opened the door for (more) intervention by mandated international organizations, not just the World Bank, mixed messages and layered policies. This can be observed most immediately in the case of Senegal's multi-layered policy and institutional architecture in the policy field concerning youth training for employment and entrepreneurship (Brun, 1970⁷).
3. The regulation of international migration as it has been developed since the 1980s and then exported by the countries of the Global North since the 1990s and through the work of the IOM since the early 2000s became hegemonic (see for example Oelgemöller, 2017⁸).

The fact that migration policy is now a priority, is largely a response to international interventions

Even though mobility originally had a different meaning and position for West African countries, this changed in response to increased European integration in the 1980s. European integration proceeded hand in hand with tightening of external borders. This had knock-on effects for West African countries, which had taken for granted regular educational and trade exchanges with mainly Southern

European, France and Scandinavian countries in the case of The Gambia. It then changed again devastatingly from the early 2000s when European governments enforced 'externalization' and 'neighbourhood' policies and funding streams, as is clear from the introduction and implementation of European Neighbourhood Policies for example and increased FRONTEX engagement. These effectively established and implemented im/mobility as a policy goal, exporting anti-immigration logics to be implemented by countries of the Global South imposed on their own people.

Migration policy does not exist in a policy vacuum – there are institutional and diplomatic dynamics

Since the early 2000s interest in 'managing migration' has increasingly been focused first on North Africa and then southwards into sub-Saharan Africa. A myriad of European Union projects, bilateral initiatives designed and funded by European countries or programmes designed by international organizations and funded by the 'donor community' (usually the rich countries of the Global North at least in the context of managing migration), have been implemented since to deter migration.

What is more is ECOWAS is still making the transformation from a diplomatic secretariat to a supposedly hands on commission which is more 'energetic'. The challenge is that there is not a 'deficit of

⁶ Kaba, O. (n.d.) Doctor of State in Economics, Adviser to the Governor of the Central Bank of the Republic of Guinea (BCRG), Director of the Foreign Exchange Department of the BCRG, report, in collection of documents from the Conte period, national archives Guinea

⁷ Brun, C. F. (1969/1970) 'Problemes de l'Emploi au Senegal' report in collection of documents, Archives Nationales du Sénégal

⁸ Oelgemöller, C. (2017) *The evolution of migration management in the Global North*. Oxon: Routledge

state’, as Aretxaga⁹ (2003:396) put it, but ‘an excess of statehood practices: too many actors competing to perform as state’.

This has consequences. One approach by some West African countries is, for example, to wait and see what the formal text is, before negotiations start – leading to misunderstandings about process. This links in with the charge that national officials are dragging their feet in ratifying and implementing country-level policies to regulate migration. Our interviews shed light on different currencies of ideas about statecraft and who should make decisions; they also highlight opportunism that emerges when there is money to be had in exchange for certain policy initiatives. As one interviewee put it, ‘best fit’ policy for any one country is what is needed, rather than ‘best practice’.



Freedom of Movement in West Africa: possible ways forward

Migration policy as externalisation of Europe’s borders in West Africa is a dangerous path – it risks infringing an individual’s right to leave their territory, and is opposed to West Africa’s historic framing of freedom of movement

In the context of the externalisation of Europe’s borders, ‘development assistance’ can be problematic. Many of the elite interview partners recognise that the practices by national level officials who participate in European trust fund

activities on migration do so more likely for symbolic reasons than out of genuine engagement. Such reluctance to genuinely engage may be wise, given Guild and Stoyanova’s (2018: 394¹⁰) conclusion that:

The EU’s policy of externalization of its border controls ... raises questions about state responsibility for breaches of the right to leave. Where the EU policy is designed and implemented to enable states outside the European Union to breach the right of people to leave their territories, the possibility of liability on those EU states participating in this policy (probably all 28) for the actions of the implementing state becomes possible.

Having said this, symbolic or otherwise, ECOWAS confirms that governments in West Africa do engage which has very real and material consequences. For this reason, the various sensitization activities of, for example, border guards are relevant to counter at least some of the problematic excesses induced by European ‘capacity building’ in the context of e.g. border management. An interesting conundrum where both harm and cure come from the same actor and the meaning and practice of freedom of movement is re-defined along the way.

Linking mobility-related policy to education and employment across the region holds potential for constructive policy development, that pays heed to an individual’s right to choose their livelihood strategy, and West Africa’s rich heritage

One alternative framing of mobility-related policy in West African countries is to link it with policies and concerns around

⁹ Aretxaga, B. (2003) Maddening states. *Annual review of anthropology* 32(1): 393-410

¹⁰ Guild, E. and Stoyanova, V. (2018) The Human Right to Leave any Country: A Right to be Delivered. *European Yearbook on Human Rights* 2018: 373-394

training for employment, granted that only those who seek training are trained and free to do with gained capacity as they wish. Such a framing would be consistent with the ECOWAS treaty of 1975 and its common approach to migration in which the link between training, employment and youth is made. It would pose the possibility to re-engage with West African currencies of prizing education and 'making it' that structural adjustment had undermined. In the context of UN-system collaboration, drawing on ILO's logic that 'work is a source of dignity' which is made up of rights, decent employment opportunities and social protection would also be consistent with many of the Objectives of the Global Compact on Migration.

Such a development would be well within the spirit of the Global Compact on Migration

The Global Compact on Migration offers political commitment in Objectives 5, 6 and 18 with relevant actions also in Objectives 2, 16 and 22. A reframing of policy guided by the more progressive elements of the Global Compact on Migration would be a constructive move for ECOWAS countries in particular in the context of having re-fashioned itself as *ECOWAS of the People*.

Education for employment/ entrepreneurship is a relatively new way of thinking about mobility-related policy and there are pitfalls to consider:

One element that is already problematic regarding some of the migration-related practices within the context of the FMM is how keen European governments are to

fund return-initiatives which include training and employment generating elements. It is a practice that is not new, at least it had been in the tool box in France for some decades. Whilst they may not all be problematic, many initiatives in the recent past and today however, have a rather flexible relationship with human and employment rights, which is one reason why the ILO cannot engage with some of these interventions.

A related problem is that a reframing needs to be careful not to turn the entirety of the West African population into 'potential migrants' that can then be posed as danger or problem with consequences for interventions imposed on Africans in the future.

The ambiguous focus on 'youth'

Another element, one that is not yet established widely in the context of mobility-related interventions, is the integration of 'youth' as a problem in the context of employment and migration. Un- and under-employment of African youth is already commonly identified as a problem. It is not a neutral demographic observation – especially given that biological and social understandings of 'youth' are conflated and often gendered. It is a way of thinking about young people as 'idle' or unemployed, especially 'young' men. It also resonates with and is sometimes linked to articulations of Africa that are spread through security-related discourses, expressed as the 'youth bulge' problem (Kimari, 2018¹¹).

The key then is to reframe both youth employment and migration as areas of opportunity.

¹¹ Kimari, W (2018) Africa needs to drop the 'Youth Bulge' Discourse New Internationalist Jan/Feb issue

<https://newint.org/features/2018/01/01/youth-bulge>
[accessed 25 April 2020]