

Local integration in West Africa

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The ECOWAS Free Movement Protocols provide a basis for long-term refugees from Sierra Leone and Liberia to move on.

Ordinarily, migration is not a 'solution' in the sense used by UNHCR. It is more often a temporary measure resorted to in order to overcome a deficit in the protection or assistance available to refugees. In West Africa, however, the provisions of the Protocol relating to the Free Movement of Persons, Residence and Establishment¹ and four supplementary protocols (collectively known as the 'free movement protocols') adopted by the Economic Community of West African States (ECOWAS) may provide a solution for refugees from one member state residing in another. The rights to residence and employment at the heart of the 'solution' of local integration are available to refugees as to any other citizen of an ECOWAS state – at least, in theory.

ECOWAS and free movement

In 1975, sixteen West African countries signed a Treaty to strengthen sub-regional economic integration through the progressively freer movement of goods, capital

and people and to consolidate member states' peace and security efforts. In 1979 the Protocol on free movement was adopted. It conferred on Community citizens the right to enter and reside in the territory of any member state provided they possessed a valid travel document and international health certificate. However, it also allowed member states the right to refuse admission to any Community citizens who were inadmissible under the member state's own domestic law. The Protocol foresaw a three-stage implementation period, with each phase – visa-free travel, right of residence, right of establishment – lasting five years.

The four supplementary protocols adopted between 1985 and 1990 committed member states, among other things, to:

- provide valid travel documents to their citizens²
- grant Community citizens the right of residence for the purpose

of seeking and carrying out income-earning employment³

- ensure appropriate treatment for persons being expelled⁴
- not to expel Community citizens en masse⁵
- limit the grounds for individual expulsion to reasons of national security, public order or morality, public health or non-fulfilment of an essential condition of residence.

The main shortcoming of these highly favourable provisions in the free movement protocols is that they are either not known or not implemented. Theoretically, all three of the phased stages are complete and the entitlements set out in the free movement protocols are the law of the region. In reality, however, only the first of the three phases has been fully implemented.

While commentary generally focuses on what has not been achieved, it is important to recognise how significant visa-free travel in the

region is. Fees for visas represent a scarce source of income which member governments have voluntarily foregone. Despite under-resourced immigration ministries and border control departments, the absence of systematic entry and exit recording systems and the widespread seeking of bribes by border officials, phase one of the protocols really is fully implemented throughout the region. This is reflected in the generally high level of public awareness of the entitlement to visa-free travel. The same public's right to reside and work in other ECOWAS states is, by contrast, not generally known but, given that phase one has been widely implemented, there is every reason to suppose that, with resources and will, phases two and three will be fully implemented as well.

ECOWAS and refugees

The ECOWAS Treaty and free movement protocols are not refugee instruments – but nor are they in conflict with refugee instruments. ECOWAS has issued a statement that refugees are to be guaranteed equal treatment under the free movement protocols with other Community citizens.

The provisions of the free movement protocols are attractive to many refugees in West Africa since they provide secure residence and work entitlements while allowing them to retain their original nationality. This is significant in light of the prohibition on dual nationality by many countries in the region. Indeed, despite offers of naturalisation to Sierra Leonean and Liberian refugees from some countries in West Africa, most refugees from these countries have preferred to retain their original nationality.

Of the three durable solutions, voluntary repatriation had largely already run its course for Sierra Leonean and Liberian refugees in West Africa, as had third country resettlement. Moreover, refugees were aware

that for most of them their status as refugees would be drawing to a close through the process known as 'cessation', under which they cease to be entitled to international protection and assistance. Local integration initiated before cessation became a logical solution.

At the same time, the return of peace and stability, improved economic performance in many ECOWAS states, the desire for closer regional integration and the reciprocal nature of the entitlements under the free movement protocols combined to create a new receptivity to this solution by governments in West Africa.

UNHCR's local integration initiative for Sierra Leonean and Liberian refugees focused on the seven countries where they were most numerous: Côte d'Ivoire, The Gambia, Ghana, Guinea, Liberia, Nigeria and Sierra Leone.

There are three important principles guiding the initiative. First, efforts were conceived on a regional basis, emphasising the regionally specific nature of the ECOWAS free movement protocols, and taking advantage of the strong support of that very active regional organisation. By promoting entitlements set out in the protocols, the initiative was able immediately to provide a degree of reciprocity for two of the countries

involved. Sierra Leonean refugees would benefit from the application of the initiative in Liberia while Liberian refugees would benefit from its application in Sierra Leone. This provided an incentive for both countries to be generous. It also provided an example – or at least tangible evidence of the promise – of the benefits available in the future to the citizens of all ECOWAS countries, providing an incentive for other countries to be generous in turn.

Second, the initiative is community-rather than individual-based so as not to exclude benefits to the host populations whose needs may be as significant as the refugees' and in recognition of their remarkable generosity over a period in some cases approaching twenty years.

Third, to some extent, though not to the extent originally foreseen, the initiative has been fitted into national development plans and priorities rather than asking that these be incorporated into the initiative.

Although in terms of specifics there are as many approaches as there are countries involved in the initiative, the ECOWAS free movement protocols figure in each. So too do the following elements:

- secure legal status (i.e. a status other than refugee status including residency and permission to work)



UNHCR/R Oichik

Voluntary repatriation of Liberian refugees from Sierra Leone, December 2004.

- multi-year support for community-based self-reliance and capacity-building activities
- environmental rehabilitation of refugee-affected areas
- an emphasis on the involvement of other agencies.

In Sierra Leone, the initiative has focused on an inventory of refugees' skills and, through a planned dispersal of the refugees, matching this to the inventory of needs of host communities. Integrating Liberian refugees will enjoy all their ECOWAS entitlements.

In Nigeria, the terms of the transition by refugees to an alternative legal status are set out in a detailed multi-partite agreement signed by the governments of Nigeria, Sierra Leone and Liberia, UNHCR and ECOWAS. In it, the Government of Nigeria agreed to grant renewable residence and work permits to refugees. The Liberian and Sierra Leonean governments agreed to issue passports to those of their citizens who were refugees in Nigeria and wished to integrate there. The refugees to whom passports were issued explicitly acknowledged that by so doing they were again putting themselves under the protection of their country of nationality and were thus no longer in need of international protection. UNHCR agreed to subsidise the cost of both the permits and the passports.

Challenges encountered

One of the difficulties encountered so far in the local integration initiative is a lack of interest on the part of refugees. For many, local integration, even with rights of residence and work, is seen as a distant second prize, with third-country resettlement remaining, unlikely as it may be, the first prize.

For those who are interested in integrating locally, there is the problem that the entitlements of the ECOWAS free movement protocols, apart from visa-free travel for 90 days, are not widely known or understood, even by government officials responsible for their implementation. There is in addition a weakness within the protocols in that states have the discretion to

determine whether non-nationals are admissible or not. Unless and until states agree to restrict determinations of (in)admissibility to the ECOWAS-recommended grounds of public order, public health and public security, the entitlements of the protocols can be undermined by states' recourse to overly broad or arbitrary grounds of inadmissibility.

Even when implemented and respected, ECOWAS entitlements do not provide solutions for refugees from non-ECOWAS countries, nor is there any plan at present to expand the scope of the protocols to include refugees from other regions. Indeed, there is a risk that the heavy focus on a regional approach and solution may fuel discrimination and exclusion for individuals outside the region, including refugees.

Observations going forward

There is increased interest on the part of other regional organisations to examine the applicability of similar local integration initiatives to their own labour mobility arrangements.⁶ However it is too soon to assess whether the local integration initiative in West Africa has been successful, even in terms of its legal component. While secure legal status is an important element of local integration, it is not the only important element. In a region where all but two countries feature in the bottom 20% of the Human Development Index, socio-economic support – notably for livelihoods – is critical. Local integration needs to be a part of local and national development plans and the full range of government and non-government actors need to be committed to doing their part.

For the ECOWAS free movement protocols to fully serve their purpose, whether for refugees or other Community citizens, they need to be better known and more fully implemented and harmonised, though perhaps not necessarily in that order. In particular, and as included among the recommendations of the November 2008 ECOWAS-UNHCR-IOM conference in Dakar⁷, it is necessary for ECOWAS, its member states and relevant partners to:

- conduct intensive information campaigns in the region to

promote awareness of the ECOWAS free movement protocols

- comprehensively study national legislation relating to admissibility, residence and work entitlements in order to identify inconsistencies with the regional free movement regime and propose appropriate remedial actions to ensure conformity with the provisions of the protocols.

For its part, UNHCR could usefully encourage harmonisation in the approach to the acquisition of legal status documents for integrating refugees. The multipartite agreement model established in Nigeria, with its emphasis on national passports and explicit elaboration of the actions and responsibilities of its signatories, is without doubt the model to be preferred.

Similarly, UNHCR, together with ECOWAS and the individual states concerned, could expand the local integration model to refugees from any ECOWAS country residing in any other ECOWAS country. In such an expansion, all parties must be aware that the model is appropriate only where there is no longer a need for international protection. The initiative does not and must not replace or undermine refugee protection but can provide a way of reducing many of the disadvantages that accrue to people in protracted refugee situations.

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1. 1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment. <http://tiny.cc/1979PProtocol>

2. 1985 Supplementary Protocol A/SP.1/7/85, article 2(1)

3. 1986 Supplementary Protocol A/SP.1/7/86, article 2

4. 1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment, article 11, and 1985 Supplementary Protocol A/SP.1/7/85, article 3.

5. 1986 Supplementary Protocol A/SP.1/7/86, article 13(1)

6. These include the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), the Southern African Development Community (SADC), the Community of Sahel-Saharan States (CEN-SAD), the Inter-Governmental Authority on Development (IGAD) and the East African Community (EAC).

7. See statement by UNHCR's Assistant High Commissioner – Protection, <http://tinyurl.com/ECOWASNov2008> and summary report <http://tinyurl.com/ECOWASNov2008Rep>