

SWP Comment

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Regional Free Movement of Persons as an Opportunity in Dealing with Climate Mobility

Great Potential, Difficult Implementation

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As climate change progresses, the number of people who are being forced to leave their homes and cross borders due to environmental change is increasing. At the same time, they lack safe, orderly and regular migration pathways. Regional free movement can expand the leeway for those who are particularly affected by climate change. The African regional organisations ECOWAS (Economic Community of West African States) and IGAD (Intergovernmental Authority on Development) have both concluded agreements that could guarantee such free movement of persons. Their examples show the potential, but also the hurdles in implementing such regulations. In order to take advantage of these agreements in terms of climate mobility, German and European development and migration policy should do more to implement regional free movement. Furthermore, it is important to support the anchoring of climate aspects in the agreements. Cooperation between the European Union (EU) and individual African states should be questioned if it threatens to hinder the free movement of people in Africa through migration management and border security.

Climate change has already had a severe impact on human mobility. According to the Internal Displacement Monitoring Centre (IDMC), 26.4 million people worldwide were displaced within their own country in 2023 due to environmental disasters. However, the correlation between climate change and migration is more complex than is often portrayed. The consequences of climate change are rarely the sole cause of migration, but they do have a variety of effects on its existing political,

social and economic drivers. However, it is evident that climate change is altering current mobility patterns. The academic and policy debate often distinguishes between *fast-onset events* such as flooding, which often lead to short-term displacement, and *slow-onset events* such as desertification, which generally result in a more permanent and planned migration. In some cases, however, people choose to remain in their place of origin despite difficult living conditions. At the same time, particularly vulnerable



people may lack the resources to migrate in the face of environmental changes – with the result that they are involuntarily “trapped” in their homes.

Climate change-induced mobility: The search for political solutions

In the face of stagnating progress on climate change, adaptation to the impacts of climate change is increasingly being discussed in international policy forums such as the annual COP – the annual conference of the United Nations Framework Convention on Climate Change (UNFCCC). Migration is also increasingly being discussed as an aspect of this adaptation. In the context of climate change, mobility can also be associated with (im)material losses for people, which is why it is often discussed in climate negotiations under the heading of climate change-related loss and damage. However, if migration takes place in a safe, orderly and regular manner, it can serve as an adaptation and risk-mitigation strategy and at least expand the leeway for people who are particularly vulnerable to the negative effects of climate change. By migrating, these people can diversify their household incomes in the long term and, through remittances, help their relatives who have been left behind to adapt to climate change. However, although international frameworks such as the Global Compact on Migration (2018) and the Protection Agenda of the Nansen Initiative (2015) emphasise migration as a possible adaptation strategy, there is as yet no international legal basis or binding policy regulation for this.

Protection and regulatory gap

Thus, there is a legal protection gap for people who are forced to leave their homes across borders in the context of climate change impacts. Unlike people fleeing violence and persecution, they have no right under international law to protection in the host country. However, adding

climate mobility to binding international protection instruments, such as the narrowly defined Geneva Refugee Convention, would be legally difficult to implement and politically unrealistic, as the current debate is more about restricting refugee protection than expanding it. Furthermore, it is generally almost impossible to identify climate change as the sole cause of displacement. This is yet another reason why it is often impossible to make a clear distinction between categories such as displacement versus voluntary migration, particularly in the context of climate change.

In addition to the lack of protection instruments, people who leave their home country as a result of climate change are also denied other migration pathways. Only in a few cases do migration policy regulations take climate change into account; one of these exceptions is a special visa category that Australia has introduced to allow vulnerable citizens of the Pacific state of Tuvalu to enter the country to work and study. However, people migrating in the context of climate change often have no option but to migrate irregularly, without a residence permit and without state support in the host country. In the absence of policy frameworks for safe and regular migration pathways, migration can exacerbate vulnerability in the context of climate change, for example by exposing people to exploitative labour conditions due to a lack of legal protection. Policy frameworks are needed to ensure this protection and to promote the positive development potential of migration. Regional instruments and actors are a possible starting point.

Regional dimension

Climate mobility is a regional phenomenon. If people do not flee environmental change in their own country, they tend to migrate to neighbouring countries. Nevertheless, regional migration governance efforts to regulate cross-border climate mobility are still in their infancy. One exception is the Kampala Declaration, which was signed by 11 East African countries in Uganda in

2022. This is the first regional framework on mobility in the context of climate change. In the declaration, the states express their intention to work more closely together in the area of cross-border climate mobility. This is also due to the fact that the African continent is one of the areas of the world most affected by climate change and climate migration. Depending on the scenario, up to 5 per cent of Africa's population could have left their homes by 2050 due to global warming, and in the Horn of Africa – the region most affected by climate change – the figure could be as high as 10 per cent.

At the same time, migration as an adaptation strategy is not exclusively a new phenomenon in West and East Africa. For example, pastoralists have historically engaged in circular migration within these regions in order to find suitable grazing areas during droughts. Overall, intra-regional migration is already widespread in both West and North-East Africa. In 2021, for example, around 90 per cent of the 7.4 million migrants in West Africa were from countries in the region. This is partly due to the extensive free movement of people within the member states of ECOWAS.

Combining free movement of persons and climate mobility

Regional organisations can use agreements on the free movement of persons to help remove obstacles to migration, and thus create safe migration pathways for those most at risk in the context of climate change. The extent to which regional free movement applies and can be used in the context of environmental change depends largely on the structure of the agreement and the progress of national implementation.

First experiences

Agreements on the free movement of persons do not usually refer explicitly to environmental or climatic events. Instead, their main purpose is to promote the

economic integration of a region by facilitating the cross-border mobility of people for work, education and trade. Nevertheless, there are already cases in which they have been used in the event of natural disasters. For example, the agreements of the Caribbean Community and Common Market (CARICOM) and the Organisation of Eastern Caribbean States (OECS) provided important mobility opportunities for people fleeing the effects of hurricanes. During the particularly severe 2017 hurricane season, displaced persons were able to use the rights granted by the agreements to enter, settle and work in other island states. In addition, in some cases exceptions were granted to allow people to enter even if they had lost their travel documents. This example shows how free movement agreements can be used in the context of climate change, provided that host countries are willing to make use of them.

Potentials and limits using the examples of ECOWAS and IGAD

The regional organisations ECOWAS and IGAD illustrate that agreements on the free movement of persons have great potential in the context of climate change, but also have their limits. They represent states – the former in West Africa, the latter in the Horn of Africa – that are particularly affected by climate change. To assess the potential of freedom of movement for cross-border climate mobility, three key criteria based on the Protection Agenda of the Nansen Initiative can be used: firstly, regular access to safe territory; secondly, residence status and rights in the host country; and thirdly, pathways to permanent residence in the host country.

The member states of ECOWAS and IGAD have each concluded agreements on the free movement of persons that are similarly comprehensive on paper – with provisions in the three areas of entry, employment and permanent residence. The ECOWAS agreement, concluded in 1979, was to be implemented in three phases (visa-free entry, residence and employment,

business establishment) by 1995 with the help of four additional protocols. Visa-free entry for up to 90 days is largely possible within the ECOWAS countries, and cross-border mobility is common in the region. However, aspects of taking up employment and long-term residence have not yet been fully implemented. IGAD is at an early stage with its 2020 Protocol on Free Movement of Persons, which has not yet been ratified by all member states. Following the ECOWAS model, the agreement is to be implemented in four phases – visa-free entry, free movement of workers, right of residence and business establishment – by 2037.

In both regions, visa-free entry is therefore provided for all citizens of member states of the respective organisation. No justification is required for entry. Unlike refugee protection, the individual situation of each person does not need to be examined – this saves people who leave their country due to climate change from uncertainty and bureaucratic procedures. However, potential costs when crossing the border and the need for identity documents can be barriers for the most vulnerable, especially if documents have been lost or destroyed in the course of extreme weather events.

In general, the agreements of the two organisations also allow for employment in the destination country. However, access to the labour market may be restricted, for example, if residence or establishment permits are not granted. The IGAD agreement also provides for access to social security systems in the host country, such as health care. Permanent residence, including naturalisation, is in principle possible under both agreements, but it is at the discretion of the respective host country in the regions. However, such a long-term perspective is particularly important for people who can no longer return to their home country due to irreversible environmental impacts.

Both agreements therefore provide for extensive regulations on entry, residence and settlement. However, they also allow member states to suspend free movement

under certain conditions and to refuse entry to certain groups of people – for example in the event of a serious threat to internal security or if migrants are not financially self-sufficient. Countries could make use of these exemptions, in particular if the consequences of climate change lead to large-scale refugee and migration movements. It is not unusual for entry options to be restricted in certain situations; Kenya, for example, closed its border with Somalia in 2011 in the context of the drought and famine in the Horn of Africa, citing national security concerns as the reason. It therefore depends on the political will of the host countries whether free movement standards also apply in the event of a crisis. To minimise this risk, it would be useful to include climate disasters as a reason for entry in the agreements.

Unlike the ECOWAS agreement, the IGAD agreement – the only agreement in the world to date – explicitly takes climate change into account. According to Article 16, member states should grant entry to people seeking protection in another member state “in anticipation of, during or in the aftermath of disaster”. As the concept of disaster is very broad, this also includes gradual environmental changes. The agreement therefore allows citizens of the region to migrate in advance of acute weather events. This is an important signal in the drought-stricken Horn of Africa. The concept of disaster in the IGAD agreement gives political visibility to the challenges associated with cross-border climate mobility and potentially increases the obligation of member states to comply with standards on free movement in the context of climate change impacts. However, the IGAD agreement is still in the ratification phase, and there has only been limited experience with the application of Article 16. In general, it can be said that the more comprehensively free movement is defined in an agreement, the better it can be implemented, the more binding it is for the member states and the more opportunities it can also offer in the context of climate change. A very far-reaching free movement would not necessarily

require a specific reference to climate disasters. However, as such a degree of free movement is rare, it makes sense to include the criterion of climate disasters in the agreements.

Nevertheless, even the integration of climate change vulnerability does not offer comprehensive protection through free movement in the context of climate change. This is because neither the IGAD agreement nor the ECOWAS protocols on free movement are binding for member states under international law. This means that people fleeing under the framework of free movement are not legally entitled to the benefits of free movement. Although both agreements prohibit mass expulsions, people moving across borders under the free movement of persons within ECOWAS and IGAD are not fundamentally protected from refoulement to areas that are becoming increasingly uninhabitable due to the effects of climate change. Furthermore, the agreements do not make a fundamental distinction between labour migration and involuntary displacement, which is why the protection needs of vulnerable groups such as unaccompanied minors are not systematically identified. This may mean that necessary measures such as humanitarian or psychosocial support cannot be guaranteed by organisations such as the UN High Commissioner for Refugees (UNHCR) or the International Organization for Migration (IOM).

As a consequence, free movement agreements can facilitate the mobility of some individuals and groups in the context of climate change, but in no way replace refugee policy instruments such as resettlement programmes or humanitarian visas. However, if free movement provides an additional mobility option for those who are able and have the means to move independently and take up work, it can reduce the burden on refugee protection instruments. The free movement of persons should therefore be supported as one building block within a set of different solutions.

Implementation hurdles

On paper, the ECOWAS and IGAD agreements provide for extensive free movement. However, the implementation of these agreements is associated with high technical, financial and human resource requirements for the member states and has progressed very differently in the two regions. Whereas ECOWAS stands for a historically evolved and successful free movement, but also for the lack of implementation of permanent residence opportunities, in the case of IGAD it is still unclear how successfully the agreement will be implemented.

A key challenge for the member states of ECOWAS and IGAD is to translate the requirements of the agreements into national legislation. The provision of travel documents for all citizens and the technical and human equipment required at border posts, for example, are prerequisites to ensure safe and orderly entry and for the free movement of persons to function. To make matters worse, the agreements do not provide precise details on the individual steps of implementation. Furthermore, the regional organisations lack the capacity and authority to assist member states in implementation, monitor progress and sanction non-compliance. IGAD, for example, receives only a small proportion of its funding from the member states – beyond that it is dependent on external funding.

At the sub-regional level, conflicts and corruption at the borders can also hinder the free movement of people. Burkina Faso, Mali and Niger announced to leave the regional organisation in January 2024 following military coups and economic sanctions imposed by ECOWAS. At the same time, as in other regions of the world, African countries are becoming increasingly sceptical about opening borders and immigration. Although the protocols on the free movement of persons have been ratified, there are repeated expulsions of migrants from the region, refusals at internal borders and arbitrary border closures within ECOWAS.

The EU's external migration policy can also be an obstacle to the full implementation of regional free movement of persons in Africa. In 2015, the EU began to develop partnerships with transit and countries of origin in West and East Africa, among other things to control and curb migration to Europe. As part of its Trust Fund for Africa, for example, the EU concluded migration partnerships with Ethiopia and Niger in 2016, which were primarily aimed at cooperation in the areas of irregular migration and the readmission of nationals. This focus on restrictive measures, such as the expansion of border facilities and increased controls, has hindered rather than promoted free movement within ECOWAS and has contributed to the criminalisation of cross-border migration. For example, the EU has used information campaigns to warn of the dangers of irregular migration within the region, but it has not provided information on the rights and opportunities that can accompany regular labour migration within the framework of free movement. In addition, under pressure from the EU, the Nigerien government banned the transport of migrants to Libya and Algeria in 2015, even if they were in the country regularly as ECOWAS nationals. In general, such cooperation with individual African states has the potential to sow mistrust among the members of regional organisations. Governments may be faced with a choice between external financial support and regional objectives of the free movement of persons.

Recommendations

Environmental change threatens the livelihoods of many people and poses enormous challenges, particularly for countries in the so-called Global South. Not least with regard to climate justice, industrial countries have a responsibility to support particularly affected countries in dealing with climate mobility. For migration to succeed as a strategy for adapting to environmental change, people should have as many op-

tions for movement as possible. Agreements on the free movement of persons enable flexible mobility patterns such as short-term and circular migration, but they also create potential sustainable prospects in neighbouring countries for those unable to return home due to irreversible climate damage.

In this way, free movement can help to close the existing regulatory gap in migration policy in the context of climate change. Particularly on the African continent, where there are already several such agreements and where the need for political solutions to deal with the consequences of climate change is particularly great, it can be of great benefit to promote these agreements. Overall, the free movement of people benefits the economic development and political stability of a region and can make it more resilient to the challenges of climate change – which is also in the interest of German and European policy. However, this requires that the implementation of the agreements be driven forward, that environmental aspects as a cause of mobility are integrated and that the free movement of people in Africa is not restricted by other priorities in European migration policy.

Strengthen regional capacities for the implementation of free movement. In the case of the IGAD agreement, the continuation of the ratification and implementation process should be supported; in the case of ECOWAS, support could be given in particular for the implementation of the components of the agreement relating to residence and permanent status. To facilitate rapid implementation in both cases, regional and national efforts should be supported where the conditions for migration within the framework of the free movement of persons are still lacking. For example, the recognition of foreign professional qualifications is an important prerequisite for taking up employment and long-term integration into the labour markets of neighbouring countries. German migration-related development cooperation can make an important contribution here, for example through the project “Improving migration and displace-

ment policies in the IGAD region” (SIMPI II), which has supported the development of the so-called IGAD Qualifications Framework. This is intended to standardise the recognition of qualifications across the region and improve refugees’ access to national education systems.

The secondment of German development cooperation staff to the relevant ECOWAS and IGAD secretariats could also be a useful step to support the implementation of the agreements technically and with personnel. Increased funding should be provided for such tailor-made development-policy measures. In addition, financial support for regional consultative processes on migration (RCPs) on migration policy issues – such as the ECOWAS Migration Dialogue for West Africa (MIDWA) with a working group on climate mobility – could help to strengthen exchanges on regular migration. At the same time, these dialogue forums provide a platform for states to advise on the challenges of climate mobility; they also help to mediate between conflicting national interests, and thus support the consistent implementation of the free movement of persons.

Promote small-scale steps in implementation. In view of the major obstacles to the full implementation of the agreements, small-scale steps of a personnel and technical nature should be supported. These could act as an implementation catalyst for the ECOWAS and IGAD free movement agreements. In order to improve inter-governmental cooperation between the relevant authorities in the areas of border security, administration, disaster management and accommodation, so-called standard procedures were developed in 2022 and 2023, for example in the regions of Kenya bordering Uganda and Ethiopia. Supported by the United Nations Multi-Partner Trust Fund, concrete guidelines were developed based on scenarios of cross-border displacement following a climate disaster: for entry and admission, registration and residence, as well as support for return or renewal of residence permits. In

this way, human and institutional capacities, such as staff at border posts, are enabled to respond adequately in the event of a disaster in the long term. The development of standard procedures should therefore be extended to other border areas, especially in regions that are particularly vulnerable to climate-related disasters. However, bilateral agreements – such as the visa agreement between Kenya and Ethiopia, whether formalised or not – can also initially regulate entry between individual countries in a region, and thus provide the first building block for comprehensive regional free movement. A step-by-step approach makes sense, as each step specifically expands the mobility options on the ground.

Include climate disasters in agreements.

Since free movement agreements usually contain exceptions that allow their provisions to be suspended, climate disasters should be enshrined in the agreements as a cause of migration. Article 16 of the IGAD agreement can serve as a model here, so that member states have less room for manoeuvre to suspend agreements under certain circumstances. As in the case of IGAD, whose agreements the EU helped to draft and negotiate through its Trust Fund, technical and human resources could be provided to ECOWAS to develop additional protocols related to climate disasters. This could build on the ECOWAS Regional Climate Strategy 2022, which already identifies climate mobility as a key area of action. However, to sustainably promote free movement in the member states of ECOWAS and IGAD, the economic benefits of successful migration through regional free movement should also be emphasised. Otherwise, the integration of climate change concerns may also make member states more reluctant to sign and consistently implement the agreements. Using the agreements in the sense of migration as adaptation to climate change, but without overloading them and thereby jeopardising their implementation, requires a balancing act that is as challenging as it is necessary.

Considering the free movement of people in the EU's external migration policy.

Although regional free movement in the IGAD region is promoted by the EU, European migration policy can also run counter to the objectives of the free movement of persons in Africa – as experience in the ECOWAS region has shown. In the interest of a coherent external EU migration policy, care must therefore be taken to ensure that the free movement of persons promoted in one place is not jeopardised in another. In this sense, migration cooperation or similar agreements should not be limited to individual partner countries, but should always consider the entire region. The possible short-term advantage of migration cooperation with individual countries must be weighed against the long-term developmental and economic benefits of well-functioning regional cooperation in general and of the free movement of persons within African regions in particular. In a situation in which European policy in Africa is increasingly being contested, and at the same time the influence of Russia and China on the continent is growing, it is all the more important to keep an eye on the interests of regional organisations as part of a partnership policy and not to disrupt well-functioning regional cooperation.



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