

Freedom of movement in Southern Africa

A SADC (pipe)dream?

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Growing socio-economic disparities within and between states in Southern Africa are a major impediment to adopting a more collective approach to managing migration. This is compounded by a lack of political will from Southern African Development Community leaders and an absence of reliable data. This report looks at policies, practices and positions on migration. On paper, the prospects for freedom of movement are there. In practice, more needs to be done.

Key findings

- ▶ The lingering instability and growing socio-economic disparities within and between Southern African Development Community (SADC) member states continue to be major impediments to adopting a more collective approach to managing migration.
- ▶ There isn't enough political will to advance freedom of movement in Southern Africa, with member states prioritising securitised approaches to border management and governance.
- ▶ Myths and misconceptions regarding migration and migrants hinder efforts to achieve integration and improved discussions on migration.
- ▶ Accurate and reliable data would help dispel myths and misconceptions about migration and migrants.
- ▶ Decisions and policies on migration must be evidence based, and informed by sound research and analysis.
- ▶ Border control processes in SADC are not consistent or standardised, which undermines proper migration management and governance.
- ▶ Several policy dialogues on migration take place at international and regional levels aiming to push the free migration agenda, but their impact isn't yet visible.

Recommendations

- ▶ In Southern Africa and the rest of the continent, migration management and governance should be primarily viewed as a developmental and socio-economic issue as opposed to a security concern.
- ▶ SADC member states should take advantage of the momentum gained since the adoption of the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment in January 2018 and the significance of the Global Compact for Safe, Orderly and Regular Migration.
- ▶ SADC member states should build on the existing labour migration regime in the region. This regime serves as a useful stepping stone to boost the implementation of regional migration governance.
- ▶ SADC member states should improve their data collection means and develop a centralised system where data and information is accessible to relevant government departments.
- ▶ To advance the economic benefit of remittances, SADC should encourage its member states to harmonise their regulations regarding money transfers to make them more accessible and less costly.

Introduction

'Everyone has the right to leave any country, including his own, and to return to his country.'¹

Freedom of movement is enshrined in the 1948 Universal Declaration of Human Rights as a basic right for everyone. However it remains a right that few effectively enjoy. As Africa prepares itself for the possibility of continent-wide freedom of movement, sub-regions are regarded as the building blocks towards continental integration and achieving freedom of movement. For Southern Africa, this task rests with the Southern African Development Community (SADC).

The 1992 Treaty establishing SADC includes the 'progressive elimination of barriers for goods, capital, services and people' as one of its core objectives.² This is a very ambitious goal rooted in a pan-Africanist ideal and a real commitment to the common good of the region.³

However, beyond policy lies practice.

Since its inception, the project to advance a regional migration policy framework has faced clear reluctance from most SADC member states – particularly migrant-receiving countries such as South Africa.

In 1995, the first Draft Protocol on the Free Movement of Persons⁴ sought to allow citizens of one state to enter freely, establish themselves and work in another state under the aegis of SADC.⁵ This proposal faced strong opposition from South Africa, Namibia and Botswana, and was later reshaped into the Draft Protocol on the Facilitation of Movement of Persons in 2005.⁶

The 2005 protocol – a watered-down version of the 1996 draft – envisions migration management as a national competency. Under the 2005 Protocol, SADC member states are responsible for individually and collectively handling migration. Although adopted, it has not yet entered into force, because only four member states (Botswana, Mozambique, South Africa and the Kingdom of eSwatini) have ratified the protocol.⁷

However, through multilateral and bilateral arrangements, most countries have complied with one of the core aims of the protocol that ensures granting visa-free entry, with lawful purpose, to citizens from other member states for a maximum of 90 days.

The scarcity of resources and the economic disparity in the region certainly play a role in deterring member states from easing barriers to entry. At the same time, and perhaps more poignantly, the lack of demonstrable political will towards full regional integration hampers progress in the implementation of a regional migration policy framework.

Yet the advantages of freedom of movement could be immense and far outweigh the possible risks. The most significant benefit would be the resultant economic development that comes with freedom of movement – not only of people, but also of goods.⁸ Other benefits could come from cutting illegal migration by making smuggling and human trafficking networks obsolete. Examples of other regions where it was successfully implemented – including in Africa – suggest that it considerably eases the burden-sharing of costs associated with migration management.

Most SADC countries grant visa-free entry to citizens from other SADC states for up to 90 days

On 29 January 2018, the African Union (AU) adopted a protocol aimed at advancing freedom of movement in Africa.⁹ The protocol calls on every Regional Economic Community (REC) – i.e. sub-regions such as SADC – to establish autonomous free movement blocs.¹⁰ Benefiting from the momentum generated by the AU protocol, SADC might finally succeed in implementing freedom of movement in Southern Africa.

This report presents the findings from qualitative research, including fieldwork and interviews with key stakeholders, aimed at assessing migration within SADC and the prospects of freedom of movement.¹¹ The report also synthesises the South African perspective on migration in the sub-region.

It analyses the migration dynamics and policy implications of implementing a regional migration framework in SADC. While acknowledging the impediments and limitations to movement, we argue that a regional migration framework aimed at regional integration and freedom of movement would enable SADC member states to effectively manage migration flows, as well as enhance

their economic development, combat transnational and cross-border crime and ensure that migrants' human rights are respected.

As an exploratory study, this report develops some guiding policy recommendations that are both relevant and pragmatic to foster the implementation of a regional migration governance framework in SADC.

The first section of the report outlines the main features of migration in Southern Africa. The second investigates the current state of migration governance. The third examines the main impediments to free movement in SADC. The fourth section argues that SADC member states would benefit immensely from a regional migration policy framework. The fifth focuses on South Africa's perspective on migration and explores how this impacts on the prospects of freedom of movement in SADC and the rest of the continent.

Migration in Southern Africa

Migration is a feature of the Southern African region with people moving within and between territories for various reasons. Historically, this migration was largely unencumbered. Starting in the late 19th century, labour migration was a key feature of the region. This emerged primarily due to the increased demand for labour in the growing extractive industries in the region.¹²

Most of the flows went to South Africa, the Democratic Republic of the Congo (DRC) and the Copperbelt in Zambia. The primary demand was for low-skilled migrants from the region.¹³ This was consistent with the labour strategies pursued by mining conglomerates and other businesses that were then able to operate independently of government pressure and unionisation.¹⁴

They could then maximise their profits, increase competitiveness and ensure industrial stability and flexibility. The benefit for source countries (such as Lesotho, Malawi and Mozambique) was that through exporting labour, they could reduce the domestic demand for jobs they could not provide.¹⁵ This export in labour also brought with it direct income and commodities for source countries.

Governments in receiving countries (Botswana, Namibia, South Africa and Zimbabwe) put pressure on business to primarily source labour from local communities. This

pressure increased and has become a key feature of how post-independence governments view foreign labour from the region. More stringent regulation of labour migration and the management of borders are now standard.

Migration in the region today mostly flows towards South Africa, while all countries in the region serve as departure, transit and destination countries. The range of factors that motivate people to migrate are varied, including forced migration due to natural disasters and conflicts and voluntary movement to reunite with family, to study, work or trade across borders. The main driver for cross-border movement is now primarily economic.¹⁶

In 2017 the SADC region recorded about 7.5 million migrants, excluding irregular migrants and not accounting for circular migration,¹⁷ with South Africa alone accounting for more than 4 million migrants according to the United Nations (UN).¹⁸

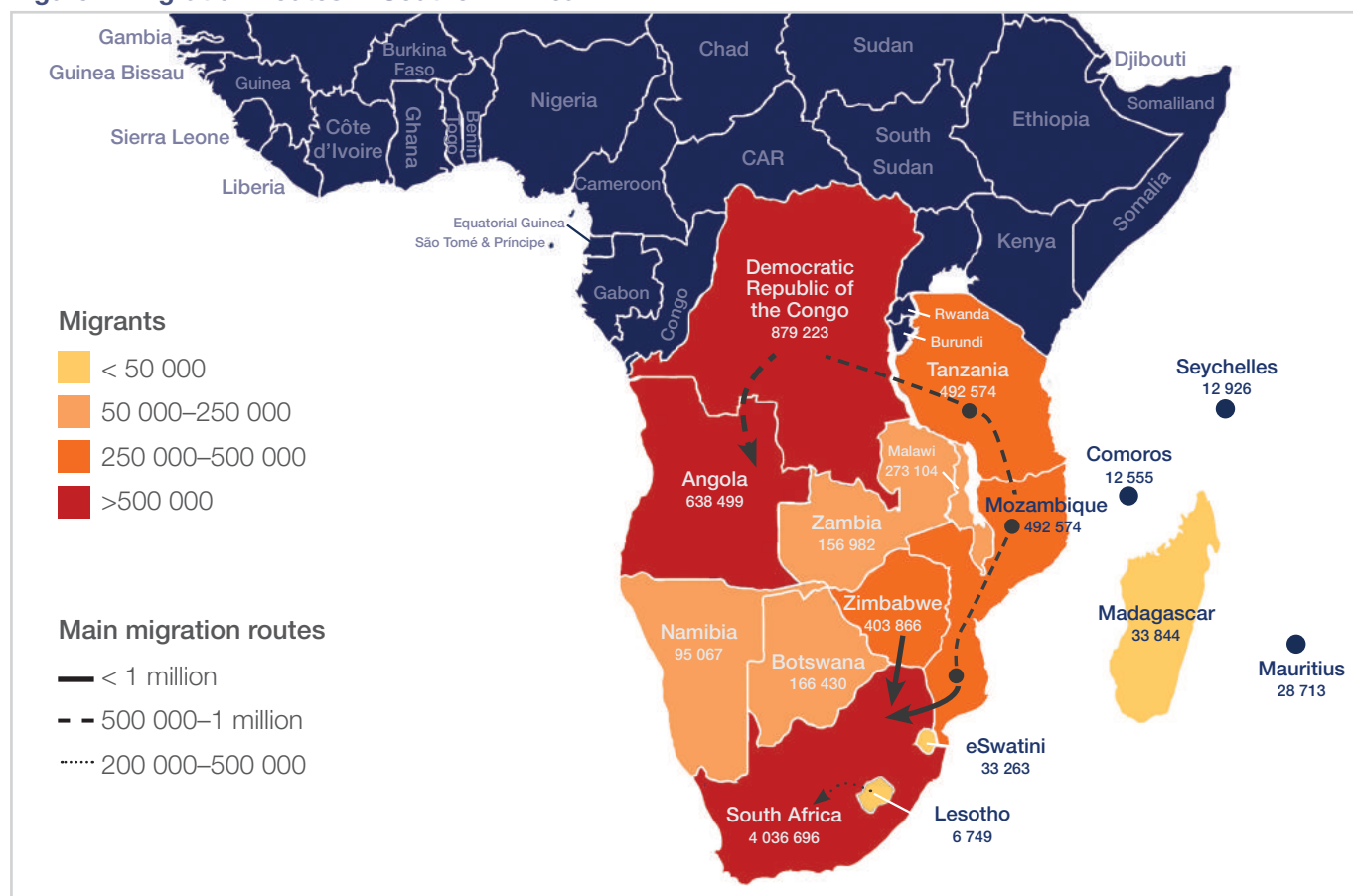
Migrants in SADC keep close ties to their country of origin, notably through remittances

A key observation of migration in Southern Africa is that 75% of all African migrants in SADC are from within the region. Also, migration in SADC is mostly temporary and circular, and regionally centred. Most significantly, migrants keep close ties to their country of origin, notably through remittances.¹⁹

Undocumented migrants are not accounted for as a separate category in the official statistics, though they are counted in the total. So while data can tell us how many people are in the country, it presently doesn't show how many of those are undocumented migrants. This is because by definition, undocumented migrants don't have a paper trail on their migrant status. They use backdoor entries, sometimes paying smugglers or bribing border officials to enter a country. So they aren't accounted for in the official immigration records.

Population censuses and household surveys also fail to capture the number of undocumented migrants, who may not want to be counted as this could lead to deportation. In South Africa for instance, there are claims

Figure 1: Migration routes in Southern Africa



Source: World Bank 2018.

that undocumented migrants could total as much as 25% of all migrants.

While we know little about undocumented migrants, Jonathan Crush, director of the Southern African Migration Programme, argues that ‘it [the number of undocumented migrants] hardly warrants the *aquatic imagery* that is generally applied to the phenomenon (“floods”, “tidal waves”, etc.)’. In 2006 it was estimated that around 3% to 5% of all migrants were illegally staying in South Africa.²⁰

There will be increasing influxes of economic migrants in the near future

According to the trend observed over the past decade, there will be increasing influxes of economic migrants in the near future. The main factor that will continue to

influence migration (and the demographics of those migrating) is the growing number of youth looking for better economic and employment opportunities.²¹

Also, the number of women travelling alone for work has spiked and will continue to rise.²² Last, climate change will progressively displace more people relying on the environment for their livelihoods.²³

This broad brush doesn’t fully capture all the intricacies of migration in Southern Africa. As outlined below, a consistent regional migration policy framework based on visa-free travel would help obtain more reliable figures on migration flows, influx and outflows. It would incentivise current undocumented migrants to be accounted for by departments tasked with immigration and statisticians, thereby allowing governments to plan for their arrival accordingly. The issues of data collection, evaluation of the situation and planning cannot easily be disentangled.²⁴

Table 1: Number of international migrants in 2010 and 2017²⁵

Country	Migrants: 2010	Migrants: 2017	% of international migrants 2017
Angola	76 549	638 499	2.1%
Botswana	120 912	166 430	7.3%
Comoros	12 618	12 555	1.5%
DRC	588 950	879 223	1.1%
eSwatini	30 476	33 263	2.4%
Lesotho	6 414	6 749	0.3%
Malawi	217 722	237 104	1.3%
Madagascar	28 905	33 844	0.1%
Mauritius	24 836	28 713	2.3%
Mozambique	214 612	246 954	0.8%
Namibia	102 405	95 067	3.8%
Seychelles	11 420	12 926	13.6%
South Africa	2 096 886	4 036 696	7.1%
Tanzania	308 600	492 574	0.9%
Zambia	149 637	156 982	0.9%
Zimbabwe	397 891	403 866	2.4%
SADC	4 388 833	7 481 445	Average 3.0%

Voices from the field 1: Migration in SADC

‘The first thing to acknowledge and to accept is that people are moving and they will continue to do so.’ (Interview July 5B, 2018)

‘Movement to South Africa is historical because of the mines. It is still informed by these historic events ... most migrants don’t intend to stay for a long period. They come for a reason, and then want to go back to their country.’ (Interview July 5A, 2018)

‘We see a rise in migration and mobility of people. People are moving more than they were perhaps 20 years ago ... people are mainly moving for opportunity in our region.’ (Interview July 24, 2018)

‘It is likely to be increasing. South Africa will likely become a major destination region because it is relatively stable, although some of the policies are restrictive.’ (Interview July 5B, 2018)

75%

OF AFRICAN MIGRANTS IN
SADC ARE FROM THE REGION

Real free movement?

While the impetus towards freedom of movement was there in the early years of SADC, the enthusiasm quickly waned. Countries in Southern Africa favour bilateral and smaller multilateral arrangements – through instruments such as Joint Permanent Commissions (JPCs) and memoranda of understanding. This often puts more emphasis on controlling and discouraging mobility than managing it, causing projects to stall.²⁶

However evidence suggests that free migration does exist to a certain extent in SADC. On paper, citizens of SADC member states can travel relatively freely within the region without the need for a visa. Eighty percent of SADC citizens are either exempted from travelling with a visa or are granted one on their arrival for short stays up to 90 days (see Annex 3) by other SADC member states.

On paper, SADC citizens can travel relatively freely within the region

Numerous agreements at national and multilateral levels also regulate labour mobility in the region, particularly South Africa's bilateral agreements with its closest neighbours (see Annex 2). Member states have adopted several SADC protocols containing provisions facilitating the mobility of certain categories of people such as diplomats and students (see Annex 1).²⁷ These frameworks enable nationals from SADC member states to enjoy freedom of movement.

However, the literature and interviews indicate that the agreements that are signed and the reality at border posts are two very different things. Existing practices are far less virtuous and differ significantly from what is on paper.

While it is relatively easy to travel visa-free for short periods of time, usually no more than 90 days, the same cannot be said of longer-term migration within SADC. In order to be allowed entry for a longer period, migrants must prove that they have an offer to work or study, and that they are able to financially support themselves during their stay.

For most prospective migrants, the supporting documentation required is extremely difficult to obtain.

Voices from the field 2: A de facto regional migration policy framework?

'SADC migrants can enter other SADC countries with up to three months' visitor visa. SADC migrants do have levels of freedom in terms of movement, they can move across borders. The big question is, can they work? Are you including that in freedom of movement? Would a migrant get the possibility to set up a business and settle in another country?' (Interview July 24, 2018)

'On paper, in terms of free movement in SADC it looks great, it seems easy to travel ... but there is a need for a more consistent way to manage movement, progressively, that doesn't require financial requirements.' (Interview July 10, 2018)

'The agreements that are signed and the reality at border posts are two very different things.' (Interview July 11, 2018)

'Political fragmentation ... creates tremendous opportunities for a de facto system to emerge, but not one that is structured by law.' (Interview July 18, 2018)

'There are a lot of progressive thoughts that are done on policy. But I think that the reality on the ground is quite far from these thoughts. There have been all sorts of stalls in the signing of those protocols.' (Interview July 24, 2018)

The administrative processes are often lengthy and expensive.²⁸ As a result, some migrants choose instead to move via irregular routes.²⁹

Existing regulations moderately address essential issues linked to migration such as human rights, development and social integration. The main emphasis is on border management and security. Further, SADC member states give preference to 'emergency measures' such as encampment and forced deportations.³⁰

Not only is it costly and logistically challenging, but it is a highly ineffective measure in controlling undocumented migration flows. In the case of South Africa, the evidence shows that deported migrants often return via informal routes.³¹

This overview of migration policies in SADC reveals that, first, free movement is not a primary objective on countries' agendas. Second, although there are various migration management practices, countries continue to emphasise the securitisation of migration. Third, the absence of a single and consistent legal framework makes migrants vulnerable to informal practices.³²

Impediments to a regional migration framework

There are several impediments to the implementation of a regional migration regime based on free movement in the SADC region. The main ones identified here are interconnected and reinforce each other. It is crucial to acknowledge these hurdles in order to pragmatically advance the freedom of movement agenda.

Securitisation and policing

SADC governments, including that of South Africa, are increasingly leaning towards a security-based approach in dealing with migratory issues. In broad terms, this inclination stems from generally negative perceptions and misconceptions about migrants, who are perceived as threats to both national security and the economy.³³

The issue of migration is politically heated and used to serve political agendas

These views are deeply rooted in nationalist sentiments promoting an 'us' versus 'them' dynamic, whereby migrants are cast out. The issue of migration is politically heated and used to serve political agendas.³⁴

Migration is primarily viewed through a national security lens in SADC. While migration might indeed pose security threats, notably in times when violent extremism and terrorism are taking root in parts of northern Mozambique,³⁵ it generally is not an overriding security issue.³⁶ Even in assuming that migration is a security problem, the evidence suggests that 'a clear regional migration framework would benefit all states in the region, reducing illicit migration and creating a better environment for business

and policy'. Yet 'securitisation' seems to have 'derailed the capacity of regional governance to lower transaction costs and produce win-win outcomes'.³⁷

Some member states seem more willing to reinforce their borders and remove 'aliens' and 'undesirable elements', as illustrated by the 'detain and deport' policy in South Africa of undocumented migrants. This policy is substantially costly, and is a deeply inefficient deterrent to undocumented migration.³⁸

Regarding national policies framing migration as a security issue, SADC has followed suit. The Protocol

Voices from the field 3: Security-economic concerns

'There is a narrative on security issues, the dangers of the movement of people, the consequences, especially the negative ones, the negative socio-economic consequences of migrants coming to countries like South Africa.' (Interview July 5B, 2018)

'There is the continued perception that migrants in South Africa engage in crime. [...] We know that crime is a heated political issue in SA, a difficult challenge that the country has been facing for a long time. Economic and security concerns are politically heated issues.' (Interview July 5B, 2018)

'There may also be security concerns because of the uncertainty of where people are coming from. The inflow of people coming from relatively violent areas, like Somalia for example.' (Interview July 11, 2018)

'If you look in terms of how migration is managed in South Africa as a country, you can see that they see migrants as threats to the local economy. They then try to manage migration by violating migrants' rights and making migration laws stricter, so migrants are not able to access certain kinds of services, including documentation.' (Interview July 10, 2018)

on the Facilitation of Movement of Persons falls under SADC's Organ on Politics, Defence and Security Cooperation.³⁹ This move reinforces a risk-based approach to migration that focuses more on territorial integrity than on the potential of free movement to boost economic development in the region, for example. It also fosters the criminalisation of migrants.

National sovereignty remains central in migration management

The current securitised approach is expensive and inefficient, particularly for countries already struggling with increasing levels of poverty, unemployment and poor service delivery. Its proponents continue to justify it, though – even if it's merely an attempt to score political points by scapegoating migrants as responsible for the inability to arrest poverty, reduce unemployment and efficiently provide services to the population.⁴⁰

Regional fragmentation

SADC member states seem generally unwilling to harmonise their migration policies, despite indicating their support for such harmonising and integration in the Migration Dialogue for Southern Africa process. Varied national policies, laws and practices remain.

Some countries such as Angola, Botswana and the DRC don't have a reference document on migration policy.⁴¹ As a result, processes at border controls are inconsistent and conducted on an ad hoc basis. Practices vary from border to border.⁴²

There is also a general reluctance to cede control over border and migration management to SADC. National sovereignty remains central in migration management. This national 'withdrawal behaviour' is counter to the expressed need for greater regional integration. In effect, despite expressing the desire to promote a more liberal approach to migration underpinned by labour migration, in practice SADC countries have adopted more restrictive and protectionist approaches to migration.⁴³

With countries making it harder for people to move freely through regular and legal means, one of the unfortunate consequences is that more migrants then

Voices from the field 4: Regional fragmentation

'Whenever SADC heads of state meet, the migration issues normally are not part of the agendas to discuss. That shows the level of interest in the issue among member states. Hence the reluctance to ratify the freedom of movement protocol.' (Interview July 10, 2018)

'Processes at borders are reactionary and ad hoc.' (Interview July 11, 2018)

'To some extent [there is] a denial in actually dealing with migration ... responses have been ad hoc and more restrictive, notably in terms of asylum and migration in general.' (Interview July 5B, 2018)

'If there is no harmonisation of regulations to improve the management of migration, there will still be a large number of people moving without protection and without legal status in their host countries.' (Interview July 10, 2018)

'There are loopholes [and] a lot of bribery.' (Interview July 5A, 2018)

'Migrants are often exploited by unscrupulous government officials and are often extorted for "cool drink" money otherwise their files "get lost".' (Online survey August 3, 2018)

use informal and illegal routes. This reinforces the belief that migration is negative.⁴⁴

Migrants not only become vulnerable to criminal networks of smugglers and human traffickers (they frequently get ripped off, attacked and raped) – they are also subject to discrimination and exploitation from corrupt state officials. Corruption and bribery are rife at border crossings.⁴⁵

Enhanced regional integration means greater mobility in production (including labour) but nationalist sentiments cast foreigners as a threat to the job security of citizens. As long as migration is viewed as a threat and not an opportunity, for both sending and receiving states, the legal drawbridge will remain up. Without legal means to sell their labour or pursue economic livelihood strategies across borders, migrants will turn to clandestine methods.⁴⁶

Political will

Migration is not a prominent issue on the political agendas of states in the region.⁴⁷ The current migration debates within SADC are geared more towards short-term political calculations than long-term development interests. Political leaders focus mostly on the electoral gains of short-term populist anti-migrant rhetoric⁴⁸ and deny the long-term developmental potential of a regional migration policy framework.⁴⁹

There are often immediate political gains from adopting a nationalist approach to migration. Negative attitudes towards immigrants are rife in the region, including in South Africa where there have been recurring episodes of xenophobic violence in some communities.⁵⁰

Scapegoating migrants as the source of socio-economic challenges allows politicians to direct attention away from their own failings, including mismanagement, corruption or failure to address issues such as unemployment or access to services. It manipulates an existing mistrust and contempt for foreigners to generate political support. This is evident in South Africa where several political leaders have openly blamed migrants for issues such as unemployment and crime.⁵¹

This said, the issue of political unwillingness also stems from the uncertainty of receiving countries – particularly

South Africa – of how they will be affected by an open border policy. This is also linked to misperceptions, fear and xenophobia resulting from a lack of reliable data and research in assessing the realities of migration in Southern Africa. It is far easier politically to be convinced that free movement is a danger that should be stopped than to advocate for it.⁵²

Availability of data

There isn't enough reliable data and accurate information regarding migration in Southern Africa. This contributes to misconceptions about migration, and consequently migrants. How can Southern African countries effectively address migration issues while they don't know exactly who is entering their country and why?⁵³

There are often immediate political gains from adopting a nationalist approach to migration

The core challenge is to provide accurate data on a more regular basis and with greater disaggregation – as underscored in target 17.18 of the 2030 Agenda for Sustainable Development. This would include clearer descriptions of the dynamics of who the migrants are, what they do, and their living conditions, thus enabling policy-makers to make appropriate evidence-based decisions.⁵⁴

Being able to interpret the data is another challenge. Our research revealed that policymakers, from local to national level, often lack the skills to analyse the data, which then leads to ill decision making. In addition, there is a critical lack of awareness of current migration regulations and their application among local government officials, and some experts in civil society.⁵⁵

When data is available, policymakers don't always trust or even consider it.⁵⁶ So regulations are less based on concrete empirical evidence and more on perceptions and misconceptions about migration. Policies crafted from scapegoating narratives that migrants are more involved in crime and steal jobs shift the debate from addressing real problems such as corruption, job creation and service provision.⁵⁷ There is an opportunity for the Global Compact for Migration to serve as a framework for the type of data that needs to be collected to inform policy.

Voices from the field 5: Political will and securitisation

'Not much is done; migration issues are pushed under the carpet ... it might create a lot of controversy, so they'd rather shy away from it.' (Interview July 5A, 2018)

'Result of short-term political calculations rather than any kind of long-term development interests.' (Interview July 18, 2018)

'Politically it works perfectly for everybody to blame migrants for everything.' (Interview July 9, 2018)

'To some extent [there is] a denial in actually dealing with migration ... responses have been ad hoc and more restrictive, notably in terms of asylum and migration in general.' (Interview July 5B, 2018)

Voices from the field 6: Data

‘Decisions in the region are not based on concrete empirical evidence.’
(Interview July 9, 2018)

‘The challenge about migration is to provide numbers on a more regular basis and accurately, to describe the dynamics of who the migrants are, what they do, what are their living conditions, in order to enable policymakers to make appropriate evidence-based decisions.’
(Interview July 11, 2018)

‘Data systems around migration, dissemination of this data, the usage thereof, coming up with uniform definitions and methodologies, are things that these nation states must address before even thinking about how to implement policies related to migration.’
(Interview July 11, 2018)

‘But the issue around South African planning for migration is that people are not looking at the data that they already have, and when they do they don’t believe it. We can do a lot to improve the data, but for me the real issue is more about data use, management and analysis.’ (Interview July 18, 2018)

‘The Department of Home Affairs [of South Africa] realised that the 2002 Immigration Act didn’t consider capacity building and training. At that stage, from a social development point of view, we said, you know municipalities are dealing [with the] socio-economic and psychological aspect of migration and social cohesion, but they haven’t had any training on how to deal with this. They are the ones on the ground, so they have to know better than anyone else how to interpret the directives, how to develop their own indicators, how to integrate those indicators in their development plan.’ (Interview July 5A, 2018)

Much talk, little action?

There is a lot of awareness among SADC member states about the need to strengthen efforts on migration management. Member states demonstrate this through their participation in migration talks at the regional and international levels.

The recently adopted AU Protocol on Free Movement of Persons, the COMESA-EAC-SADC Tripartite Free Trade Area agreement,⁵⁸ and the UN Global Compact on Migration,⁵⁹ have generated a lot of momentum on migration governance. Together with the Migration Dialogue for Southern Africa and the Southern African Ministers’ Conference on Population and Development, these talks have put the freedom of movement agenda back on the table.⁶⁰ It is crucial that these dialogues and negotiations continue in order to ensure that SADC moves towards adopting a common position on migration.⁶¹



RELIABLE DATA ON
MIGRATION IN SADC
IS LACKING

Voices from the field 7: Positive aspects of policy dialogues

'I think the AU Protocol on the Freedom of Movement is great ... it is the most progressive way to go.' (Interview July 9, 2018)

'Doing it through the AU ... there is a need for a body that can assist SADC countries in doing it [regional migration governance].' (Interview July 5A, 2018)

'There needs to be pressure and inertia to SADC on board. If these negotiations push SADC closer to the ratification of the SADC protocol on the facilitation of movement, there is no harm. Any kind of inertia to things going is positive.' (Interview July 5B, 2018)

'I think that a global migration framework [Global Compact on Migration] is a very advantageous tool to have which can be the building block upon which nations can manage their migration.' (Interview July 11, 2018)

However several people spoken to during this study questioned the real impact of these dialogues. They argue that states don't always have well-articulated positions on how migration fits into their broader developmental plans and continue to push for agreements centred on security and control.

At the same time, some interviewees view the interest in dialogue as being influenced by external actors (such as the European Union) whose motivation for strengthening migration governance in Africa is to reduce the numbers of people migrating to their shores. Interviewees mostly felt that these dialogues failed to address the fundamental issues associated with migration such as trade, labour and development.⁶²

Freedom of movement has the potential to shore up economies across SADC, in both receiving and sending countries

3.7%

AVERAGE PROPORTION
OF SADC STATES' GDP
FROM REMITTANCES

Going by Africa's varying legal frameworks seeking to address migration issues, it's evident that discussions on migration in Africa are not new. The September 2018 Migration Dialogue for Southern Africa, however, focused not just on these issues, but more concretely on the development of a draft regional migration policy framework.

This framework, once finalised and if agreed on by the majority of SADC member states, would serve as a useful base instrument towards an integrated and harmonised position on migration within SADC. However the other hurdles highlighted in this report would still need to be scaled.

Voices from the field 8: Negative perceptions of policy dialogues

‘In this climate where migration is seen so much as a security issue, what they are likely to agree to is something that reinforces the power of states to exclude migrants. If you look at the Global Compact on Migration, that is pretty much what we are going to get. The one thing every state can agree to is that states have the absolute right to control migration. My fear is that these processes might lead to something like that.’

(Interview July 18, 2018)

‘I attended some conferences where you had SADC governments around on panels, and there seems to be zero work being done really ... they talk about the need to harmonise policies and legislation, but it doesn't happen.’

(Interview July 24, 2018)

Benefits of migration and arguments in favour of freedom of movement

There are several benefits of migration to the development of the region, and even greater future potential.

A 2018 study by the World Bank reveals that immigration has a positive impact on local employment, labour earning and wages. Although it is true that unemployment is lower among foreign nationals than locals, the results of this research show that for every immigrant employed in South Africa, two jobs are created for locals.

Immigrants also take part in the economy by paying taxes and rent, and providing cheaper goods and services to the community.⁶³ In this way, immigration has a direct and tangible positive impact on the economies of receiving countries.⁶⁴

Furthermore, remittances (money sent home by migrants) account for a substantial share of the economic development of the SADC region – on average 3.7% of SADC countries' GDP. Countries such as Comoros, Lesotho and Zimbabwe rely heavily on remittances, respectively for 21%, 15% and 11% of their GDP.⁶⁵ It generates economic stability – and, in turn, political

stability – in sending countries. People are less forced to move. And hosting economic migrants becomes less of a burden for receiving countries.⁶⁶

Considering the high cost of transferring money from South Africa in the SADC region, there is tremendous potential to harness even more economic development from reducing remittance transaction costs and opening formal channels for remitting income and goods for undocumented and low-income clients.⁶⁷ Remittances are primarily sent directly to relatives and friends and do not go to a centralised fund from which government can then allocate funding as part of a reserve.

Some SADC member states individually acknowledge the benefits of immigration. For instance South Africa, while increasingly policing its borders, sees migration as a way to compensate for its loss of skilled workers. Its latest migration policy paper, the 2017 White Paper on International Migration, mentions skills import as a core objective of South Africa's immigration approach.⁶⁸

Similarly, Mauritius sees migration as a skills import and enhancing tool to its labour pool, and the Seychelles – the most open African country in terms of visa requirements – relies greatly on migration for tourism.⁶⁹

Immigration has a direct and tangible positive impact on the economies of receiving countries

Regarding security concerns, a regional migration policy framework would allow for better control and management of migration. Freedom of movement is about transparency. It would allow governments to better understand who is entering the country and why, and hence be better prepared for their arrival. Importantly, it would protect migrants from getting involved in vulnerable modes of access to the country – smuggling and trafficking.⁷⁰

Both the literature and the key stakeholders interviewed suggest that freedom of movement has the potential to shore up economies across SADC, in both receiving and sending countries.⁷¹ In short, the more developed a country is, the less its citizens are compelled to move for economic reasons – primarily poverty and lack of opportunity.

Voices from the field 9: Benefits of freer migration

‘When you make it more difficult for people to move one can see more smuggling and informal routes of migration ... if movement is made easier it becomes automatically safer.’ (Interview July 9, 2018)

‘Well-managed migration can be positive for both countries of destination and origin, especially in terms of labour, remittances, taxes.’ (Interview July 10, 2018)

‘If we want not to attract more and more numbers of people, we need to promote development in the region. And I think that migration itself could support that if it were properly managed.’ (Interview July 24, 2018)

‘Freedom of movement will be about recognising and facilitating a system that is already there, that people de facto are already moving fairly freely within the region. That would mean that those people would have some level of protection and an entitlement of certain types of rights. I think the benefits would be about lower costs of migration, probably an ease of and a formalisation of economic exchanges where banks and others would take the place of smugglers and money lenders. That would probably promote a more stable form of development and investment. I don’t think that we would see a massive demographic shift. People who want to move, for the most part, are already doing so ... It is in part an argument based on fact and on ideology. I prefer to give people choice when there is no compelling reason not to.’ (Interview July 18, 2018)

‘It is also an acknowledgement that people do not only move when there is a deficiency in the country from which they are from ... freedom of movement in terms of laws, at a regional level, is kind of following what people are already doing: people will move and continue to move.’ (Interview July 5B, 2018)



SA IS THE MAIN MIGRANT
DESTINATION IN SADC

South African perspectives on freedom of movement

As the main destination for migrants and the largest economy in the region, South Africa can lead the policy orientations of the SADC bloc on migration issues. As it stands, however, South Africa seems unlikely to advance the idea of regionalising the governance of migration.

On attaining freedom from apartheid in the early 1990s, South Africa embraced regional integration – in part to re-join the international community and also to establish its credibility and its position in the region.

After almost a decade of relatively open-border policy, mostly to let in the South Africans who fought the apartheid regime from abroad, starting in 2002, the country began to implement stricter immigration regulations. Although it is

Voices from the field 10: South Africa's perspectives on freedom of movement

'Its view is that it is unable to absorb all these people in the region.' (Interview July 11, 2018)

'It favoured restrictive measures such as "detention and deportation" which is not really curbing migration because people want to move to South Africa irrespective of the strict laws in place.' (Interview July 9, 2018)

'Are the South African government or the SADC countries doing justice to the migrants? The more they make policies strict, the more the corruption at the border grows. Because of certain regulations, migrants have to pay to access documentation instead of making it easier.' (Interview July 10, 2018)

'It always comes down to the issue of agenda. They are not ready to address the increasing needs, especially in terms of social service provisions associated with migrants. If you are well off in terms of development, the implementation of policies that you have, you are able to address the challenges associated with migrations which are international interest issues. Which is why the South African government keeps the national interest as its main

argument, which has never been clearly defined.' (Interview July 10, 2018)

'South Africa is the one that holds back on the freedom of movement project initially because it is a destination country; like any other destination country, the assumption is that if you open your borders there is a flood of people coming into the country, which is not the case as research has demonstrated.' (Interview July 9, 2018)

'These concerns are not based on anything concrete. There is no evidence that shows that foreigners are impacting the crime rate in SA for example. It is just one way to use foreigners as scapegoats, but in reality, there are no real correlations between migration and the crime rate or unemployment. Nowadays, especially resulting from the concerns around migration in Europe, migration is being seen more as a threat, and SA is also riding on this. (Interview July 9, 2018)

'If South Africa signed [the FOM protocol], it is for diplomatic reasons. But in practice South Africa has no intention to follow through.' (Interview July 18, 2018)

the most advanced economy of the region, it remains the most unequal with high poverty and unemployment, and remains unable to provide basic services for all.⁷²

South Africa favours restrictive and securitised solutions to manage the migrant influx

The conditions set for freedom of movement in 1995 were rejected because they may have been too restrictive in the view of some countries at the expense of others. But by 2005 a realisation had come that some kind of resolution was needed to manage the influx of migrants into the country.

While South Africa signed and ratified the 2005 facilitation of movement protocol – partly because of its watered-down nature – it never really made any significant step

towards the regionalisation of migration policies.⁷³ The country benefits from migration by using cheap labour in, among others, the mining sector, and to offset the emigration of skilled South Africans abroad. However it increasingly favours more restrictive and securitised solutions to manage the influx of migrants.⁷⁴

It is an approach described as 'self-risks based', seeking to keep 'risks' outside national borders, thereby making it harder for low-skilled migrants to enter the country.⁷⁵

Driven by an anti-immigrant rhetoric, its domestic policy – including border control and detain-and-deport policy – is moving away from an immigration policy in line with a more regional perspective.⁷⁶

Conclusion

In many ways, the SADC is already a de facto free movement zone and the removal of controls would not have a massive impact on migration

flows. What it would do is provide legal channels for those who want to migrate, reduce the opportunities for personal enrichment by corrupt state functionaries on both sides of borders, eliminate current high levels of corruption and abuse in the immigration system and reduce the exploitation of migrants who enjoy few rights and protections.⁷⁷

As Crush et al. suggest, SADC has the characteristics of a free movement bloc, although the protocol has not yet entered into force. While most migrants in the region originate from the region, there is still not a proper structure devoted to migration governance in SADC.

SADC member states should harmonise their regulations regarding money transfers to make them more accessible and less costly

The lingering instability and growing socio-economic disparities in and between member states continue to be major impediments to adopting a more collective approach to migration management. A lack of political will from leaders of the bloc and a critical lack of reliable data compound this. The result is that efforts to advance freedom of movement regularly stall or are frustrated.

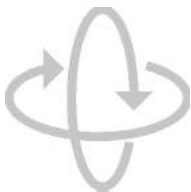
This is not to say that freedom of movement will not be a reality for the region, but to achieve it the barriers highlighted should first be overcome. Several participants in this study were confident that the AU protocol on free movement of persons and the Global Compact on Migration would push SADC to finally adopt a regional legal framework on migration.

A regional policy based on collective responsibility on migration management could lead to more economic and political stability in the SADC region. It would also be valuable in limiting associated risks and easing the burden. There is a critical need for a regional migration policy framework to be put in place as migration flows are likely to increase in the near term. Free movement is a development and stability imperative.

Recommendations

Understanding the barriers to a regional migration policy framework in the SADC region helps to guide recommendations on the way forward. Drawing from the findings of this study, progressive measures should be considered to advance the freedom of movement agenda:

- Southern African states should improve their data-collection means – particularly disaggregated data as recommended in the 2030 Agenda for Sustainable Development – to facilitate evidence-based decision making. They should also build capacity on data analysis and on current regulations on migration in both governmental and non-governmental sectors and in the 2020 round of censuses.



FREE MOVEMENT IS KEY
TO SADC'S DEVELOPMENT
AND STABILITY

- SADC member states should build on the momentum of the adoption of the AU Protocol on Free of Movement of Persons and international initiatives such as the UN Global Compact on Migration to show the benefits of regional migration governance and foster its implementation.
- SADC should use the existing labour migration regime – visa waivers, labour migration bilateral agreements and SADC protocols (notably the 2008 SADC Protocol on Trade) – as a stepping stone to boost the implementation of regional migration governance. It would be a relevant orientation to harness the development potential of migration for SADC countries.
- Migration management should be primarily viewed as an economic issue as opposed to a security concern. As such, for Southern Africa, it should be managed by SADC's Economic Development, Social and Human Development Department instead of the Politics, Defence and Security Department.
- SADC should encourage its member states to harmonise their regulations regarding money transfers to make them more accessible and less costly. It should also foster the use of alternative money transfer technologies and platforms offering lower costs of transaction.

Notes

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Appendices

Annex 1: SADC protocols including migration regime

	Objective and purpose	Migration provision(s)	Date of adoption	Date of entry into force
Protocol on the Facilitation and Movement of Persons 2005	Progressive elimination of migration barriers; free entry for lawful purpose for up to three months	Migration is the primary objective of the protocol	2005 (signed by 15 countries)	Only four ratifications, not in force
Protocol on Education and Training 1997	Areas of cooperation as follows: basic education, intermediate education and training, higher education and training, research and development, life-long education and publishing and library resources	Article 3(a) aims to facilitate freer movement of students and staff within the SADC region for study, teaching, research and any other pursuits that relate to education and training and, to this end, seeks to work at relaxing and eventually eliminating immigration formalities	1997	2000
Protocol to the Treaty Establishing SADC on Immunities and Privileges 1992	Immunity of SADC	Visa-free laissez-passer for SADC officials to enter any country of SADC	1992	1993
Protocol on Science, Technology and Innovation 2008	Cooperation and promotion of science and technology and innovation in SADC	Art 2.11: work towards progressive elimination of restrictions of movement for scientists and technologists	2017	Not yet in force
Protocol on the Development of Tourism 1998	Promoting the sub-region as a 'single but multifaceted tourism destination' which can be assisted by facilitating intra-SADC travel through the easing or removal of travel and visa restrictions and harmonising immigration procedures	Complete abolition of visa requirements for SADC nationals and introduction of a tourism uni-visa for visitors from countries outside the region White Paper 2017: 'However, security and income sharing considerations by member states seem to have derailed the progress.'	Amended in 2008	2002

Continues on page 21


	Objective and purpose	Migration provision(s)	Date of adoption	Date of entry into force
Protocol on Free Trade of 1996	Objective to create a free trade area in SADC and promote trade between member states	Implications for business persons especially cross-border traders who frequently travel for business purposes	2005	2008
Labour Migration Policy Framework of 2014	Promote sound management of intra-regional labour migration for the benefit of both the sending and receiving countries as well as the migrant workers	Art.3(f): create a legal and policy framework for labour migration within SADC through harmonised labour and social security legislation, in the context of ILO conventions on migrant workers and African Union policy documents	2014	Not yet in force


Annex 2: South Africa's labour migration bilateral agreements with neighbour countries

	Botswana	Namibia	Malawi	Lesotho	eSwatini	Angola	Zimbabwe	Mozambique
South Africa	Joint Cooperation Committee: Cooperation on migration; MOU on labour migration	Binational Commission: No visa needed for 90 days	Joint Cooperation Committee: No visa needed for 30 days	Lesotho/SA Joint Bilateral Commission Agreement of Cooperation: Free movement of people 30-day + labour migration but compulsory work permit + cooperation on tourist movement	Joint Cooperation Committee: Facilitation of movement of people + MOU on labour migration	MOU on Cooperation in the Field of Human Settlements (capacity building); No visa needed for 30 days	Commission for Economic, Social, Scientific, Technical and Cultural Cooperation; No visa needed for 90 days	Waiver of visa requirements for holders of ordinary passports (30-day visa visiting status) + MOU on labour migration

Annex 3: Visa requirements within the SADC region (Visa openness index)

	Country/visa requirements	TRAVELLING TO						
		Angola	Botswana	Comoros	DRC	eSwatini	Lesotho	Madagascar
TRAVELLING FROM	Angola		Visa needed	Visa needed	Visa needed	Visa needed	Visa needed	Visa needed
	Botswana	No visa needed		Visa needed	Visa needed	No visa needed	No visa needed	Visa needed
	Comoros	Visa on arrival	Visa on arrival		Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival
	DRC	Visa needed	Visa needed	Visa needed		Visa needed	Visa needed	Visa needed
	eSwatini	Visa needed	No visa needed	Visa needed	Visa needed		No visa needed	No visa needed
	Lesotho	Visa needed	No visa needed	Visa on arrival	Visa needed	No visa needed		Visa needed
	Madagascar	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	
	Malawi	Visa needed	No visa needed	Visa on arrival	Visa needed	No visa needed	No visa needed	Visa on arrival
	Mauritius	No visa needed	No visa needed	Visa on arrival	No visa needed	No visa needed	No visa needed	Visa on arrival
	Mozambique	Visa on arrival	No visa needed	Visa on arrival	Visa on arrival	No visa needed	Visa on arrival	Visa on arrival
	Namibia	No visa needed	No visa needed	Visa needed	Visa needed	No visa needed	No visa needed	Visa needed
	Seychelles	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed
	South Africa	Visa needed	No visa needed	Visa needed	Visa needed	No visa needed	No visa needed	Visa needed
	Tanzania	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival
	Zambia	Visa on arrival	No visa needed	Visa on arrival	Visa on arrival	No visa needed	No visa needed	Visa on arrival
	Zimbabwe	No visa needed	No visa needed	Visa on arrival	No visa needed	No visa needed	No visa needed	No visa needed

 Green = No visa required
(Visa-free access range
between 30 to 90 days
per trip)

 Yellow = Visa on arrival

 Red = Visa required prior to travel
(Note: exemptions are made
for holders of official passports
traveling on official business)

Malawi	Mauritius	Mozam- bique	Namibia	Seychelles	South Africa	Tanzania	Zambia	Zimbabwe
Visa needed	Visa needed	Visa needed	No visa needed	Visa needed	Visa needed	Visa needed	Visa needed	Visa needed
No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed	No visa needed
Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival	Visa on arrival
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