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Published by the International Bar Association on behalf of the IBA Foundation





2018

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3

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3

Lex:lead 2018 annual scholarship winning articles

How can laws affecting the free movement of people reduce poverty and support economic development?

Mawusi Eyi Audrey Kudu

4

How can laws affecting the free movement of people reduce poverty and support economic development?

Kasanga Ngulube

9

Laws affecting the free movement of people and their role towards reducing poverty and enhancing economic development

Kiddus Merkorios Gebreamlack

12

How can laws affecting the free movement of people reduce poverty and support economic development?

Victor Azure

15

Steps in the 'right direction': How laws affecting free movement of people can reduce poverty and support economic development

Nana Adwoa Baiden

19

How can laws affecting the free movement of people reduce poverty and support economic development?

Chimango Nyasulu

23

How can laws affecting the free movement of people reduce poverty and support economic development?

Innocent Zimba

26

How can laws affecting the free movement of people reduce poverty and support economic development?

Andrew Kakanda

29

How can laws affect free movement of people reduce poverty and support economic development?

Stella Amanuel Araya

30

How can laws affect free movement of people reduce poverty and support economic development?

Ivy Akuzike Nkhata

34

How can laws affect free movement of people reduce poverty and support economic development?

Momodou Manneh

37

International Bar Association

4th Floor, 10 St Bride Street

London EC4A 4AD

Tel: +44 (0)20 7842 0090

Fax: +44 (0)20 7842 0091

www.ibanet.org

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Please direct any queries to:

Anne Bodley

Formerly Publications Editor, IBA Foundation,
London

annebodley@yahoo.com

Lex:lead Group annual scholarship competition

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Awards are funded by a grant to the Lex:lead Group from the International Bar Association Foundation, among other donors. For more information, please visit www.lex-lead.org or email lexlead@yahoo.com.

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**Mawusi Eyi
Audrey Kudu**

Ghana School of Law,
Accra

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

The free movement of people is a multifaceted concept that must be addressed taking into consideration the fact that the world is divided into regions. Thus, approaches will be different because what works in part X of the world might utterly fail in part Y. The focus of this paper is to discuss how laws concerning the free movement can achieve the universal goals of poverty reduction and economic development. In the ensuing paragraphs, there will be a definition of the following key concepts: free movement, poverty and economic development. The continents of Europe and Africa will be highlighted. This is because the latter continent has the greatest challenges in the pursuit of poverty reduction and fostering economic development, whereas the former is one of the best examples of a free movement region and will be instructive in addressing the free movement of people, its benefits and challenges. Finally, recommendations on how laws can facilitate the free movement of people to ensure poverty reduction and economic development will be discussed.

Free movement

The concept of free movement of people is summarised in the Universal Declaration of Human Rights, which states that ‘everyone has the right to leave any country, including his own, and return to his country’.¹ The African Union’s Free Movement Protocol (2018)² defines free movement as the right to enter and exit Member States and move freely within them, subject to the state’s laws and procedures. The concept is typically three-pronged, comprising a person’s right of entry, residence and establishment. The African Union’s Free Movement Protocol³ defines the right of entry as the right of a national of a Member State to enter and move

freely in another Member State. Then, it defines the right of establishment as the right to take up and pursue economic activities in the territory of another Member State. The right of residence is defined as the right to reside and seek employment in another Member State other than the person’s Member State of origin in accordance with the national law of the host Member State. The free movement of people is one of the four basic freedoms of the single market, the others being free movement of capital, goods and services. These freedoms were enshrined in 1957 in the Treaty of Rome, which established the erstwhile European Economic Community (now the European Union). Freedom of movement began as a way to encourage people to travel to fill jobs after the Second World War. The idea was that a mobile workforce would help to boost the economies of the EU’s six founding members and perhaps discourage future conflict on the continent.⁴ The system allows EU citizens to work, study and retire anywhere in the EU.

Poverty

Poverty, like the concept of free movement of people, is multidimensional. The United Nations Development Programme’s (UNDP’s) Multidimensional Poverty Index (MPI) measures poverty looking at three key dimensions: health, education and living standards, with ten indicators including lack of access to clean water, adequate nutrition and primary education. Therefore, people who are deprived of at least a third of these indicators are classified as multidimensionally poor. Poverty looks like grandmothers taking care of their abandoned grandchildren. It is not being able to give your child a decent meal. It is dirty water and sharing your two-room house with 11 people. It is not being able to afford a \$40 medical bill. It looks like

garbage, torn clothes and dirty mattresses. It sounds like yelling, honking and mosquitoes. It smells like diesel, charcoal and body odour.⁵

Economic development

In simple terms, economic development means improving the living standards of people. The UNDP's Human Development Index measures economic development using three basic dimensions: the ability to lead a long and healthy life, measured by life expectancy at birth; the ability to acquire knowledge, measured by mean years of schooling and expected years of schooling; and the ability to achieve a decent standard of living, measured by gross national income per capita.⁶ The concept of economic development has evolved from merely the progress of a country in terms of income per capita to include other indices, such as health and education.

The EU, a prominent example of the free movement of people

In addressing how laws concerning the free movement of people can alleviate poverty and support economic development, it is helpful to highlight briefly the EU's policy on free movement, its benefits and challenges. Currently, the EU's free movement policy means that, apart from the original policy, which covered the free movement of workers and freedom of establishment, nationals of Member States (not just workers) enjoy EU citizenship automatically and have the right to move and reside freely within the territories of Member States. This was brought about by the Maastricht Treaty 1992.⁷ The free movement of people is also provided for in the following instruments: the Treaty on EU (TEU);⁸ the Treaty on the Functioning of the EU (TFEU);⁹ the Charter of Fundamental Rights of the EU¹⁰ and EU Directive 2004/34.¹¹

Highlights of the policy include the establishment of the Schengen area under the Schengen Agreement,¹² that is the agreement of 14 June 1985 and the convention implementing the Schengen Agreement, which was signed on 19 June 1990 and entered into force on 26 March 1995. There are currently 26 full Schengen members: 22 EU Member States plus Norway, Iceland, Switzerland and Liechtenstein (which each have associate status). Ireland and the United Kingdom

are not parties to the convention, but can 'opt in' to selected parts of the Schengen body of law. Denmark, while part of Schengen, enjoys an opt-out for any new justice and home affairs measures, including on Schengen, although it is bound by certain measures under the common visa policy.¹³ The establishment of the Schengen area has achieved the following: the abolition of internal border controls for all persons; measures to strengthen and harmonise external border controls: all EU citizens need only show an identity card or passport to enter the Schengen area; a common visa policy for short stays: nationals of third countries included in the common list of non-member countries whose nationals need an entry visa may obtain a single visa valid for the entire Schengen area; police and judicial cooperation where police forces assist each other in detecting and preventing crime and have the right to pursue fugitive criminals into the territory of a neighbouring Schengen state; there is also a faster extradition system and mutual recognition of criminal judgments; and finally, the establishment and development of the Schengen Information System.

The EU is far from Utopia, however, and there are challenges with regard to its free movement of people policy. First, is reverse discrimination. This refers to when an unexpected group is treated less favourably than a group that is normally discriminated against. This therefore concerns situations in which nationals are treated less favourably by their own state than citizens from other Member States. This often happens with family reunification, where national rules may be less favourable than EU law, which is indeed generous. In simple terms, a European citizen does not fall under EU law while in its Member State of nationality because that person is considered to be in an 'internal situation', which means outside the scope of European law. In other words, Europeans are citizens of the EU in all Member States except their state of origin.¹⁴ For example, a Kosovar national falls outside the scope of application of EU law after the acquisition of EU citizenship in Luxembourg, whereas the person would have been able to benefit from the EU family reunification directive as a third country resident. Also, a person living just across the Belgian border in France and working in Flanders can benefit from the Flemish care insurance, whereas

someone in an identical situation living in Wallonia cannot.¹⁵

Other challenges include infrastructural problems from large flows of people, a housing crisis, congestion and brain drain from developing countries.

Succinctly put, the EU is characterised by full freedom of movement offered to EU citizens, and extends even to non-EU citizens, that is, third country nationals on the basis of family links to a European citizen, an agreement concluded by their country of origin with the EU or their work relationship with a company operating in the EU. The policy provides for an open border regime within the Schengen area, a sophisticated mutual recognition regime and laws prohibiting discrimination against EU citizens on the basis of nationality. It has a powerful central secretariat in the form of the European Commission which is endowed with an exclusive right of initiative for policy proposals and responsibility for the implementation of a wide range of legislation.¹⁶

Conclusively, despite varying complexities of free movement depending on the world region under scrutiny, in addressing how to reduce poverty and support economic development through its laws, EU policies should be prudently emulated, steering away from implementation of aspects that have been unhelpful and that have defeated its purpose.

Africa

Special mention is made of Africa because collectively, more work needs to be done there than elsewhere to achieve the twin goals of poverty reduction and economic development. The World Bank Poverty and Shared Prosperity Report 2018¹⁷ states that sub-Saharan Africa now accounts for much of the world's poor, and – unlike most of the rest of the world – the total number of poor there is increasing. The number of people living in extreme poverty in the region has grown from an estimated 278 million in 1990 to 413 million in 2015. Of the world's 28 poorest countries, 27 are in sub-Saharan Africa, all with poverty rates above 30 per cent.

It is not of course all doom and gloom. Free movement of people is key to alleviating poverty and improving economic development in Africa and other regions of the world. There is ample proof that migration boosts the economies of receiving countries. According to an African

Development Bank report, tourism in the Seychelles increased by seven per cent annually between 2009 and 2014 when the country abolished visas for African nationals. Boosted by increased revenues, by 2015 it had become a high-income country with thriving real estate, aviation and service industries. The same report indicates that African travel to Rwanda has increased by 22 per cent since it eased its visa requirements in 2013. Since then, Rwanda's cross-border trade with Kenya and Uganda has increased by 50 per cent. These instances are both evidence that the free movement of labour and capital boosts economic activity.¹⁸

The increased movement of people, goods and services across borders inevitably incentivises better infrastructural linkages and connections among African countries. This is consistent with the global Sustainable Development Goals of the UN 2030 Agenda for Sustainable Development, which calls for the facilitation of orderly, safe, regular, and responsible migration and the mobility of people, including through measures such as the implementation of planned and well-managed migration policies.¹⁹

Recommendations

The following measures are recommended to ensure that laws affecting the free movement of people reduce poverty and support economic development.

It is recommended that protocols in the pipeline or already-existing protocols be revised in light of instruments such as the 1951 Refugee Convention, which recognises the special needs of vulnerable groups. These instruments should be refined to provide unique protections for these special groups instead of merely restating the provisions of the convention. This will unleash untapped potential from human capital within this category. It will help to alleviate poverty among such groups, and enable them to contribute to the economic development of their countries.

The point of free movement is to make requirements on intra-regional travel more flexible, mainly by removing the need for a visa for short visits, but still requiring a work permit for intended residency or other longer stays, or by issuing visas on arrival. The pertinent question to ask is who is struggling to travel without visas? Evidently, officials of large companies find it easier to obtain visas because they have the resources to overcome most

existing barriers. Also, because the majority of intra-regional investment and trade is driven by big companies, free movement will not of itself markedly change economic conditions unless other complementary interventions, such as shared infrastructure plans; joint development zones; the harmonisation of border formalities; mutual recognition of skills, qualifications and work experience; and integrated planning, such as shared visas for tourists from non-Member States, such as the African Union, are implemented.²⁰

Equally relevant economic actors, apart from large corporations, include semi-skilled job seekers, small business entrepreneurs, and small-scale traders and tourists. These categories of persons should be given unique protection by amending protocols in which they have been overlooked because they possess widely unleashed potential in terms of poverty reduction and economic development. Implementing free movement protocols with such unique protection across continents like Africa should be pursued because they would accelerate more flexible operations that can readily take advantage of scale and opportunities, unhindered by the constraints of a national regulatory jurisdiction. The implementation of free movement of persons could help those operating along more difficult borders, and is likely to reduce, if not eliminate, unnecessary harassment by border agencies.²¹

It is recommended that the scope of harmonised policies to be put in place should be broadened to include areas relevant for trade and development, such as cross-border infrastructure corridors, that is, the internet, telecommunications, railways, aligned immigration and border formalities, strengthened national civil registration systems and standardised identity documents.

There must be domestication of regional economic community protocols relating to the free movement of persons; and a strengthening and harmonisation of national laws and policies to promote simpler processes for cross-border mobility in Africa. Legislation and policies should enable a regulatory environment in which labour migration policies support the creation of jobs and businesses, facilitate the mobility of the migrant workforce and ensure fair recruitment practices. These laws must promote the labour rights of migrants and address the abuse of migrant labour, unethical recruitment and human trafficking.²²

The obligation for citizens of a regional economic community to have a residence card should be abolished and replaced by a simple registration as pertains to the EU. Eventually, in order to avoid the cumbersome bureaucratic requirements of unnecessary documents – which vary according to the Member State concerned – legislation should specify precisely the type of proof that can be required from members of Regional Economic Communities by the national authorities for issuing a registration certificate.

States in a region should implement already agreed agreements so as not to render them pointless, and establish centralised institutions, like the European Commission, and endow them with enough clout to churn out implementable policies for the free movement of persons in a managed, orderly manner.

Legislation on the labour and human rights of migrants should be insisted upon to protect the human rights of migrants from oppressive systems, such as the *kafala* system,²³ and ultimately abolish such systems. Stringent security controls at ports of entry should be implemented to regulate the influx of threats to national security.

Illegal cross-border activities must be prohibited, and there should be national collaboration with international security and justice agencies to combat activities such as human trafficking.

The removal of visa requirements should be extended gradually to an increased number of countries within a common continent, to eliminate harassment and extortion at the borders and promote intra-regional tourism.

Laws should be formulated stipulating a uniform form of identity (ID) and travel documents for continents and regions that have not yet adopted such a system as a step toward removing regulatory impediments to free movement of people and to promote integration.

Conclusion

In conclusion, it is evident that the free movement of people is a strong catalyst supporting poverty reduction and economic development. It boosts trade, tourism, and the transfer of skills and knowledge. The Organisation for Economic Co-operation and Development (OECD) projected that free movement has lowered the average unemployment rate across Europe by up to six per cent. For example, in light of the eurozone crisis, workers from southern European

countries, which have suffered the brunt, have been heading north to find employment. Free movement allows workers to migrate from countries where jobs are scarce to others where jobs are available and where labour is in short supply. It is a solution for countries whose working-age population continues to shrink.

Yet, there are potential and existing problems accompanying the free movement of persons. These include xenophobia; threats to national security; human trafficking; social dumping, that is, the abuse of free movement by businesses to undercut or evade existing labour standards; socio-economic inequality among states; and escalated nationalism. It is therefore imperative to perform a balancing act where on the one hand, citizens and policy-makers are sensitised to the benefits of the free movement of persons in order to reduce heightened nationalism and hysteria whenever policies favourable to the free movement of persons are considered. On the other hand, implementation of laws permitting the free movement of people must be measured, gradual and take account of legitimate national security concerns, among other risks, and provide stringent measures to combat its attendant risks. The free movement of people is like a fire in that it fuels the growth of economies. It is a beacon of hope, signifying new opportunities for people to reinvent themselves from impoverished citizens to gainfully employed, remittance-sending migrants, cross-border entrepreneurs, international students and tourists. However, the laws implemented must control it as a phenomenon, lest it burn and destroy the very foundations of nations in which its effect is felt.

Notes

- 1 Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A (III) (UDHR) Art 13(2).
- 2 Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, (adopted 29 January 2018), Art 1.
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- 8 Art 3(2).
- 9 EU, Consolidated version of the Treaty on the Functioning of the EU, 13 December 2007, 2008/ C115/01 Art 2.
- 10 Art 45.
- 11 EU, Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the union and their family members to move and reside freely within the territory of the Member States.
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- 16 See n 14 above.
- 17 World Bank, *Poverty and Shared Prosperity 2018: Piecing Together the Poverty Puzzle*, Washington, DC: World Bank. License: Creative Commons Attribution CC BY 3.0 IGO.
- 18 Tshepo T Gwatiwa and Michael Noel Sam, 'How the Free Movement of People Could Benefit Africa' (The Conversation, 14 March 2018) <http://theconversation.com/how-the-free-movement-of-people-could-benefit-africa-92057> accessed 26 April 2019.
- 19 International Organization for Migration, 2018 Study on Benefits and Challenges of Free Movement of People in Africa, 2018.
- 20 *Ibid.*
- 21 *Ibid.*
- 22 *Ibid.*
- 23 The Arabic system that emphasises the temporary nature of migrant workers' presence in the country. Thus, even if the worker lives in the country for a long time, he or she does not acquire citizenship. The migrant worker is not allowed to enter the country, transfer employment or leave the country without first obtaining explicit written permission from the *kafeel*, ie, his or her employer.

The sponsor supporting Mawusi Eyi Kudu's award is Allen & Overy

Kasanga Ngulube

University of Zambia,
Lusaka

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

Introduction

The notion of the free movement of people from region to region is arguably of fundamental importance in shaping an economy's standing in the global market, as well as impacting the livelihood of any one nation's people and their standard of living. This is so because the free movement of people affects positively the gross domestic product (GDP) of any nation through factors such as increased trade and foreign investment.¹ Additionally, as the world we live in today is characterised by globalisation, the underlying question is what effect is posed by fettering the free movement of people?

This essay endeavours to shed light on how laws affecting the free movement of people can reduce poverty and support economic development. It will begin by defining economic development, poverty and laws affecting the free movement of people (providing examples). Thereafter, the essay will discuss the core concern of this essay and show how the above laws can aid poverty reduction and support economic development.

Economic development

Simply put, economic development is the growth of the standard of living of a nation's people including from a low-income economy to a high-income economy. This encompasses changes in income, literacy and education levels, as well as the socio-economic structure of a country. It can thus be said that economic development denotes a situation of sustained increase in the production of goods and services, typically accompanied by fundamental structural changes. Among the notable determinants of economic development are more efficient resource allocation; greater investment and savings; improvements in science and technology;

increased skills and education; and economies of scale.²

More often than not, the concepts of economic development and economic growth are used interchangeably; however, the two concepts are not one and the same thing. Economic growth is a component of economic development in that it is narrower in nature; it cannot therefore be equated to development. De Beer and Swanepoel refer to economic growth as the sustained rise in the production of goods and services in a nation.³ Additionally, economic growth is measured in monetary terms in a specified period. The most common measurements are GDP and gross national product (GNP). With this said, it is to be pointed out that economic growth is a key driver of economic development and can therefore be a factor in poverty reduction, as well as the economic development of lower-income nations.

Poverty

Generally, poverty can be defined as deprivation. Physiological deprivation involves the unavailability of basic materials, such as monetary income or biological needs, and includes inadequate nutrition, poor health, education and shelter. Persons can be considered poor if they are unable to secure the goods and services necessary to meet their basic material needs. Social deprivation is a wider notion, and includes aspects such as risk, vulnerability, lack of autonomy, powerlessness and, often, a lack of self-respect.⁴

It is worth noting that poverty, according to Todaro, can be classified as either relative or absolute.⁵ Absolute poverty is a situation in which income is so low that even a minimum standard of nutrition, shelter and personal necessities cannot be maintained. This is destitution. In other words, absolute

poverty (or destitution) means being unable to afford any basic human needs including clean water, sound nutrition, healthcare, education, clothing and shelter. Relative poverty is viewed as dependent on the social context. Social poverty may include lack of access to information, education, healthcare and political power. Hence, relative poverty is a measure of income inequality among individuals or social groups in comparison to one another.

Laws on the free movement of people: a general context

The free movement of people generally connotes the right of individuals to travel from place to place within a territory, and to leave the territory and return to it. This notion signifies the concept of freedom of movement as a basic human right. Article 13(2) of the Universal Declaration on Human Rights⁶ states that ‘everyone has the right to leave any country, including their own, and to return to their country’. This right is also enshrined in various constitutions across the world.⁷ However, it is worth noting that the notion of the free movement of people is not absolute; it is limited by various immigration and migration laws imposed in different countries. These laws are put in place to protect security and health, among other things.

Some countries in recent times have seemed willing to cast off laws that restrict free movement, aware that these seem to dilute the economic and development benefits derived from unrestricted movement of people. This can be seen from agreements reached by different countries, such as the European Community with its Member States,⁸ as well as the adoption of treaties such as the Free Movement Protocol by the African Union, which supports free movement within its Member States.⁹

Among the various objectives of laws on free movement, particularly in relation to persons, are first, to accord a right of entry between different countries and access to work as employed persons; second, to accord the same living, employment and working conditions as those accorded to nationals; and third, to increase bilateral and multilateral relations between nations.

How laws affecting the free movement of people reduce poverty and support economic development

Boosting the tourism industry

In countries that strive for tourism, free movement laws, or indeed, opening up borders, can have a positive impact on economic development and in turn lead to a reduction in poverty levels. This is because persons willing to travel between countries with developed tourist industries will not be drawn back by requirements such as visas and passports, and there will be a significant increase in inward tourist arrivals.¹⁰ According to an African Development Bank report, tourism in the Seychelles, for example, increased by seven per cent between 2009 and 2014 when the country abolished visa requirements for African nationals.¹¹ Such measures often lead to an increase in the foreign exchange rate in the market which countries can then use to stabilise their currencies and to diversify the earning capacity of a nation.

Additionally, an increase in tourism supports an increase in employment rates. Examples include an increase in the number of hotels, food outlets and transportation systems, which will all need staffing. Furthermore, boosting the tourism industry can act as an incentive for investment in infrastructure, such as roads, railway network systems and also education facilities.¹² Benefits such as these support sustainability in the production of goods and services, as well as fundamental structural changes, and have an impact on poverty reduction by creating employment and creating an environment in which the tourism industry can accommodate entrepreneurial ideas.

The labour market

Free movement of people policies tend to see a decrease in the unemployment rate as economic activity increase as a result. The Organisation for Economic Co-operation and Development reports that the average unemployment rate has been lowered by six per cent in Europe arising from free movement policies within the European Union.¹³ Such results impact positively on the economic development and poverty reduction of nations by ensuring that

people have access to a source of livelihood through sustainable access to income-earning ventures. Furthermore, free movement laws allow for human capital to be spread across different countries as there will be no border restrictions, which should also lead to an increase in the production of goods and the provision of services. In addition, free movement laws cripple brain drain. As a result, highly skilled or professional people will not be forced to leave their countries permanently due to poor conditions if they can freely integrate between different countries where they have unrestricted access to the labour markets. As a result, they will be able to share and provide tactical and workable solutions in their spheres, including in the eradication of poverty, as well as increasing economic development.

Trade

Opening up free movement encourages trade and investment between different countries. As regards trade, it can be argued that the free movement of people entails the creation of unrestricted trade areas. A situation will thus arise where people trading locally only, will now be able to trade across borders. This is essentially beneficial for the growth of an economy as foreign exchange will be obtained through such trading mechanisms, which can enable nations to stabilise their economies.¹⁴ Additionally, trade expansion helps to generate income and provide a resource base for development. Furthermore, as the availability of goods and services will be increased, costs for consumers will typically be lowered. This helps in reducing poverty as even individuals from low-income households or communities will have greater access to basic necessities. In essence, the point is that, through trade, there is creation of employment, countries are able to grow their economies and consequently, there is a reduction in poverty.

Conclusion

This essay has illustrated how the concept of free movement of people can aid economic development and also work towards a reduction in poverty. The essay has also given examples of how this can be achieved through trade and through flexibility of access to the labour market, including enhancement of the tourism industry. Furthermore, it is worth noting that, although the potential benefits arising from free and increased movement across the world cannot be stated exhaustively, it is put forth that if this concept is widely adopted, it can act as a catalyst for economic development, as well as finally having a concrete and more stable mechanism towards the eradication of poverty.

Notes

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- 13 *Ibid*, note 11.
- 14 *Ibid*, note 1.

The sponsor supporting Kasanga Ngulube's award is Claude Moore Charitable Foundation.

**Kiddus Merkorios
Gebreamlack**

Addis Ababa University,
Addis Ababa
lexlead@yahoo.com

Laws affecting the free movement of people and their role towards reducing poverty and enhancing economic development

Freedom of movement began as a way to encourage people to travel to fill jobs after the Second World War. The idea was that a mobile workforce would help to boost the economies of the European Coal and Steel Community (precursor to the European Union)'s six founding members, and perhaps discourage future conflict on the continent. The concept was introduced by the Treaty of Rome in 1957 envisaging a large market that would cover the whole European community and would be based on principles of a free circulation of goods, persons, services and capital.¹ Accordingly, the treaty specified that the free movement of people included the right of persons to move freely within the community in order to work in the Member States of their preference without discrimination based on nationality; and the right to establish themselves in any Member State as self-employed, or to set up a company, a branch or subsidiary.²

As can be observed from the treaty, the principal objective was to allow people with the ability to impact the overall economy, like workers and businesspeople, to move freely without restriction as to employment and business endeavours. Thus, the foremost intention of the treaty was to pave the way for economically-active sects of the community's population to contribute more to the overall gross domestic product (GDP) of the community. In other words, the treaty on free movement of people was mainly proposed to impact the economy and reduce poverty in the community. Asserting much about the conception and objectives of the laws, it is now essential to assess the pertinent impacts of the laws on free movement towards reducing poverty and economic advancement.

In order to carefully evaluate the impacts of the laws on the free movement of people, it is proper to consider the different economic and developmental gains derived from the application of the laws in countries where the laws were passed. The achievements relate to the enhancement of free movement of labour, development of human capital, investment reinforcement, economic stimulation and regional development.

Enhancing free movement of labour

Among other things, laws permitting to the free movement of workers/labourers do the following.

Create more flexible labour markets

In any one country there may be a shortage of professionals in the market. It takes a long time to train and qualify professionals in a field. Thus, if there is free movement of labour, skilled and qualified workers can instead be attracted to fill shortages, making the economy more flexible and overcoming the shortage more quickly. Inflowing labour increases the active labour supply, increasing the country's long-run potential output. In addition, skilled workers bring higher labour productivity.³

Avoid wage inflation

An economy may experience labour shortages and this puts strong upward pressure on wages; higher wages can easily lead to inflationary pressures. So, if the law allows for the free movement of labour, rising wages draw more labour into a country, and this will

prevent excess wage inflation.⁴ For instance, if there is a shortage of sugar mill engineers in Ethiopia and the wages paid to existing engineers is high, the wages paid will attract Sudanese engineers to the country, reducing wage inflation in Ethiopia.

Reduce unemployment

If the law permits the free movement of labour, workers from one country can take temporary jobs when an economy is booming, and return home when the boom is over.⁵ People will have greater opportunities for employment which will reduce unemployment rates, reducing poverty.

Reduce regional economic inequalities

The free movement of labour should help to reduce regional disparities between economic unions or countries. The free movement of labour, for instance, has enabled African workers in the Middle East to earn and save money and raise their living standards. Some of this income will be saved and sent home as remittances to raise living standards and add to the gross national income of the home country. In addition, according to the Organisation for Economic Co-operation and Development (OECD), across Europe, the average immigrant household contributes more in taxes than it takes in benefits, increasing the revenue of the host government of the country to which they migrate. Therefore, laws on the free movement of people enhance the free movement of labour, resulting in a reduction of poverty, and sustaining the economic growth of both the country of origin and the receiving country by increasing their foreign exchange reserves and their revenues for investment.

Promote labour competitiveness

A further consequence of laws impacting free movement, workers will be encouraged to upgrade their skills and will be more qualified to be employed elsewhere. This will qualify countries' labour capital and increase their competitiveness in the market.

Encouraging efficient bureaucracy

Laws encouraging open borders facilitate the movement of investors and businesspeople. People come with expectations of a

competent and expeditious bureaucracy in the country in which they are interested in investing. Hence, the government of the receiving country will be obliged to improve and reform its bureaucracy to match the needs of investors, harmonising its system to facilitate trade and investment.

Development of human capital

Laws permitting the free movement of people often see a change in an individual's outlook on life, giving him/her choices that he/she alone controls. Their impact is inspirational; the prospect of mobility gives an incentive to study harder, to be more inventive, to keep learning and to perform better. It encourages people to be more qualified, adding value to human capital. Moreover, when people are free to move across borders, human capital can be allocated to more efficient uses, leading to greater innovation, much of which benefits the whole region due to the fundamentally non-rival nature of knowledge and ideas.⁶

Bringing competitiveness through inward investment

As a result of the laws permitting the free movement of people, countries may face the risk of losing qualified professionals in search of better opportunities elsewhere. This scenario triggers those countries to come up with responses to make their economies more attractive and dynamic by investing more in infrastructure, public goods, quality public services and healthcare education, all of which affect productivity of the country's economy.

Boosting the economies of receiving countries

Laws affecting the free movement of people increase business and investment. Under these laws, people are entitled to move from country to country freely without the need for visas, and this privilege extends to tourists, businesspeople and entrepreneurs, whose roles in the receiving countries' economies are significant. These people import foreign currency for spending, and also come up with business ideas for investment, which boosts the economies significantly.

According to an African Development Report, tourism in the Seychelles increased by seven per cent annually between 2009 and 2014 when the country abolished visas for

African nationals. By 2015, thanks to increases in revenues, it had become a high-income country with thriving real estate, aviation and service industries. The same report also states that African travel to Rwanda has increased by 22 per cent since it respectively eased its visa requirements in 2013. In addition, Rwanda's cross-border trade with Kenya and Uganda has increased by 50 per cent. This is evidence that laws on the free movement of people help to promote trade, tourism and investment.

Furthermore, the International Organisation for Migration (IOM) report revealed that Africans are interested in investing in the continent, some of whom have immense financial muscle to invest in the continent's future, but it has been rightly pointed out that one of the reasons holding this back is because of regulatory impediments, such as those relating to free movement of persons.⁷ Experts agree that free movement of persons contributes to greater trade and investment.⁸

Encouraging joint investment and promoting regional development

Once laws permit the free movement of people between countries, there will be regular travelling by people between countries and a need to develop infrastructure such as roads and railways, to facilitate movement. This circumstance prompts governments of the countries to come up with joint infrastructure development projects to facilitate movement. The projects, in addition to creating employment opportunities, smooth economic transactions and promote regional development in terms of infrastructure.

Conclusion

This short essay demonstrates some pertinent impacts that laws on free movement bring in reducing poverty and promoting economic development. Laws enabling free movement of persons, such as the Treaty

of Rome, present opportunities to develop human capital across countries. Such laws entitle people to get increased employment opportunities and raise their standard of living. The prospect of mobility also inspires youth to upgrade their potential and competitiveness. It is not only the people that are going to benefit from laws affecting free movement, but also countries benefit from the bounty. The countries in which the laws are passed will be prompted to improve their infrastructure and be competitive to attract investment. In addition, the country's economy will witness considerable economic revitalisation because of the increase in foreign exchange reserve and revenues. To this end, it can be said that one can appreciate the role of laws on free movement in promoting investment, increasing employment opportunities and reducing poverty by carefully examining their effect.

Notes

- 1 Phare Business Support Program – SMECA, Internal Market: *Free movement of persons and services/Mutual recognition of diplomas*, UEAPME, p 3.
- 2 Treaty Establishing the European Community (EC Treaty), Art 3c.
- 3 Tejvan Pettinger, *Free movement of labor advantages* (Economics Help, 25 June 2017).
- 4 *Ibid.*
- 5 *Ibid.*
- 6 Open Borders, *Global benefits of open borders*, p 1.
- 7 African Development Bank (AfDB), OECD and the United Nations Development Program, *African Economic Outlook 2016: Sustainable Cities and Structural Transformation*, 2016:88.
- 8 See 'Is migration good for the economy?' OECD Migration Policy Debates, 2014 www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf accessed 21 April 2018; see also speech by the Minister of Interior, Ghana, at the Meeting of Government Experts on the Protocol on Free Movement of Persons in Africa, Accra, Ghana, 20 March 2017.

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Victor Azure

University of Ghana,
Accra

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

Introduction

Since the inception of organised societies with governments, laws, and the notions of citizenship and rights, a thorny issue has been the status of outsiders within a state and what rights, if any, they could claim. Historically, citizenship had a rigid and limited conception that meant that many people, even within one state, were out of scope and, consequently, could not enjoy the rights that came with being a citizen.¹ In modern times, the concept of citizenship has expanded as notions of slavery, caste and racial gradations between people have been both largely and formally abandoned across the globe. Many modern constitutions do not limit citizenship to the circumstances of a person's birth but view it instead as a legal category; a civic code to which anyone can subscribe by meeting applicable legal requirements. These requirements mostly transcend race, gender, religion (with the exception of theocratic states) and caste, and lean toward a sense of common humanity. Yet, modern country borders and ports are strictly controlled by states to ensure there is no unlawful or unauthorised entry by outsiders without the right of entry. Laws that affect the movement of people across country lines – state immigration laws, citizenship laws, international laws of supranational regional and subregional organisations,² international humanitarian/human rights law and maritime law, among others – largely govern the scope of the voluntary and involuntary movement of people. This essay will focus on how laws can govern the free movement of people (voluntary migration) in ways that facilitate efforts to reduce poverty and foster economic development. The essay starts with a discussion of the task of reducing poverty and generating economic growth. This discussion will centre on the progress made thus far and the challenges that still lie

ahead. The next part of the essay discusses free movement principles and is followed by highlighting ideas on how law can make free movement more relevant to the twin tasks of poverty reduction and economic development.

Poverty reduction and economic development over the years

For the purposes of economic and development policy, the term poverty is a metric measured using a standard known as the poverty line, which is a gross amount of money below which standards of life are hard to sustain. Presently, the poverty line as set by the World Bank is \$1.90 per day. Although data on global poverty levels was not systematically reported until the World Bank began to do so in 1981, researchers such as Bourguignon and Morrison³ have provided useful projections on global poverty dating as far back as 1820. Roster and Ortiz-Ospina,⁴ using the data provided by Bourguignon and Morrison in addition to World Bank data, revealed that, not only has poverty fallen consistently over the last 200 years, but standards of living have increased tremendously. One consequence is that diseases (infections) that killed even the most affluent people in the 19th century will now only kill the most impoverished people on earth in the 21st century. This is as a result of the incremental progress made in science and medicine, but also the general increase in standards of living of people everywhere over the years. In addition, since the World Bank started putting out poverty data in 1981, poverty levels globally have fallen from 44 per cent of the world's population living on less than \$1.90 a day in 1981 to under ten per cent in 2015.⁵

Economic growth has been criticised as an inadequate indicator of the wellbeing of people yet it is important in many ways, not least in ensuring that population growth

does not lead to the impoverishment of the population. The world's population has increased sevenfold since 1820,⁶ but for commensurate economic growth the world would have been in extreme poverty by the turn of the 20th century because a world without economic growth leads to less and less income for everyone as the population grows.⁷ Thus, economic growth is crucial to the task of lifting people out of poverty.

Despite the significant strides that have been made in poverty reduction over the years, the present picture is still dismal. Crucially, the challenge of poverty reduction presently reveals the deep structural problems that make eliminating global poverty a Herculean task. Two such problems are: (1) inequality; and (2) regional disparities in the distribution of the net benefits of global economic growth to different states and regions. Data provided by the World Bank show that, although the poverty rate has fallen from 44 per cent in 1981 to below ten per cent in 2015, 41 per cent of people in sub-Saharan Africa still live below the poverty line.⁸ Also, 1.6 billion people in developing countries do not have adequate access to water, whereas 2.6 billion lack basic sanitation, leading to health challenges resulting in about 350 million deaths from malaria each year.⁹ In addition, 121 million children around the world lack access to education.¹⁰ These dismal statistics are exacerbated by the fact that, whereas in 1980 the world's richest one per cent owned 16 per cent of global income, by 2014, they owned 21 per cent of global income. By contrast, the bottom 50 per cent of the world's population got eight per cent of global income in 1980, and by 2014 that had only increased marginally to ten per cent.¹¹ These statistics reveal the deep structural problems that remain despite the progress made over the last three decades.

The quest for a better life viewed within the context of the structural disparities of global income distribution explains why many people, especially in underdeveloped and developing countries, have had to relocate for better prospects, and in the process pose a policy conundrum before policy-makers as to the nature, scope and effects of free movement. The free movement of goods and people has been much touted historically for its potential to propel economic growth and reduce poverty as goods meet markets and labour meets capital in a production chain. Free movement has also been a product of and inspired by nationalistic or racial fervour,

and, at its peak, reveals altruism and a sense of a common heritage, evoking a willingness to embrace people from far and wide. These perspectives on free movement have coloured attempts in the post Second World War era to integrate countries and make growth faster and more equitably shared. The European Union (EU), Economic Community of West African States (ECOWAS), East African Development Commission (EADC) and Association of Southeast Asian Nations (ASEAN), among others, one way or another recognise the need for integration as a catalyst for growth and shared prosperity. Periodically, however, there has been a backlash against foreigners in countries, especially during hard times. This means that the goodwill and altruism that accompanies free movement and the settlement of people in foreign countries is unreliable at best.¹² In the west, Britain's decision to exit the EU in 2016, with migration as one major sticking point, and the rise of right-wing anti-EU parties in a handful of countries seeking to stop the tide of free movement of people into their countries, and to some degree, the movement of refugees, is reminiscent of that recurrent theme.

Free movement

Free movement refers to the right to move freely within and between countries unhindered. It may include a right to reside, seek employment and access to welfare systems.¹³ Free movement is not, and has never been, an unconditional 'right' with benefits attached, and it remains primarily linked to economic interests.¹⁴ This stems from the fact that countries actively protect their borders and reserve the right to deny entry to any category of persons who they deem unfit to enter their territory. Internationally, there is no global legal regime that confers a right to immigrate into another country. What exists, however, are attempts by regional and subregional groupings to create such a right among themselves towards securing common benefits. The EU, ECOWAS and other multilateral groupings have free movement regimes for citizens of Member States. The economic interest nature of regional frameworks for free movement makes them exclusive in kind, conferring the right on Member States only. Thus, this results in internal free movement, but external (for people who do not belong) movement is fettered within that same geographical space.

Article 13(2) of the Universal Declaration on Human Rights (UDHR) establishes that

every person has the right to leave his or her country and return to it. Yet, this right implicitly requires the right also to enter another country, creating a lopsided right with dubious utility.¹⁵ In reality, however, people from developed countries are able to move and settle elsewhere relatively more easily than people from poor countries.¹⁶ Through immigration laws, rich countries have engaged in the systematic discrimination of ‘undesirable migrants’ – persons who it is believed will be a liability to the host country. The free movement of people across borders is crucial in the discussion on reducing poverty and forging economic development in the following ways: (1) where people are able to move to places where their labour will meet the right opportunities, they can be lifted out of poverty and the remittances that they send back home helps to lift others; (2) the current immigration regimes that exist in most developed countries that allow them to discriminate against ‘undesirable migrants’ (poor and uneducated people) only reinforces the cycle of poverty by permanently shutting the door on a section of the world’s population that badly needs a connection to the global income stream; and (3) the discretionary nature of the power to grant free movement that developed countries practice in relation to developing countries ensures that only the most promising from these regions get the opportunity to move. This strengthens the vicious cycle of poverty as the brightest brains are drained away to developed countries. The rest of this essay will address how laws regulating free movement can be tailored towards a more just state of affairs.

The role of law

First, free movement must be made an internationally recognised human right. There must be a corollary right of immigration to the right of emigration contained in Article 13(2) of the UDHR. The status quo only ensures that people who are from rich countries and the most desirable persons (people with a high education and income) in poor countries have freedom of movement, which only widens inequality. If free movement will be meaningful in reducing poverty, then the categories of the world’s population that are poor and structurally cut off from global income streams must have a right to

relocate to get educated, acquire skills and obtain employment in order to better their standards of living. It is argued herein that, as a general proposition, all people should have the right to enter any country of their choice subject to certain conditions, such as economic crisis, national security and other such conditions that will make taking in more people inimical to the interest of any particular state at any given point in time. Further, reasons given for the rejection of migrants must be empirically verifiable, and states must be internationally accountable for the reasons that they cite in rejecting other people’s request to enter and reside in their territory.

Second, there must be the removal of discriminatory practices of any kind. Apart from economic potentials of persons that countries (especially developed countries) use to discriminate against poor people, other forms of discrimination exist in terms of race or religion. Countries presently reserve the right to determine who can enter into their territory. Often, states under the guise of national security and other such reasons have ensured that people from regions they do not like have less access to their territories. In recent times, the Trump administration’s ban on seven Muslim-majority countries from entering the United States came with similar undertones.¹⁷ An international legal regime that sets standards that prevent countries from discriminating against specific groups will help to ensure that there is equity in the ability of people to exercise free movement.

Third, a larger framework that widens the scope of education and skills acquisition will enhance the potential of free movement to reduce poverty and create economic development. The income inequality gap, which only reinforces the poverty of certain groups, can be mitigated through the creation of multilateral frameworks for the recognition of qualifications and skills acquired among Member States. A lot of people with good qualifications in poor countries find it difficult to get jobs in some other countries because there is no regime for recognising the certificate that they hold from their countries. Regions with free movement regimes can use it to reduce poverty and foster economic development if they can agree to collectively recognise the certifications provided to citizens by each country as this will broaden employment possibilities, as well as

educational possibilities of persons seeking to move from one place to another. Given that the world's poor populations are so because they lack education and high-income employment prospects, making a broader area of education and employment available increases the odds that such people will actually get educated and employed within the broader area.

Fourth, the creation of uniform qualification and professional standards. In addition, general professional standards across regions can be harmonised to ensure that there is faster service delivery propelled by free movement of people doing business across free movement areas. If professions such as engineering, law, accountancy and architecture are given regional qualification standards, it widens the scope for entry and practice to bigger markets in ways that will generate incomes for persons moving to seek work and professional qualifications. This will be greatly enhanced by the creation of a legal framework among states that allows for the portability of social benefits incidental to employment from one country to another.

Conclusion

This essay has shown that even though the practice of racial gradations of people that came with a pre-packaged bundle of rights that they could enjoy have been largely and formally abandoned, structural inequality is still a problem in the global economy. The result is that huge numbers of people, because of the country or region in which they were born, do not have access to the global income stream. As such, despite impressive economic growth and reduction of poverty in recent decades, poverty and decline appear to be endemic to some areas and not others. The essay noted in earlier paragraphs that, even though global poverty has reduced by 44 per cent since 1980, 41 per cent of people in Africa still live below the poverty line, and the richest one per cent of the world's population own a disproportionate share of global income that is still increasing faster than the gains made by the bottom 50 per cent. These facts show that the problem facing the world is not just how to grow economies but also how to ensure equitable distribution of global incomes. To this end, it has been argued in this essay that it is important to level the playing field for both the 'haves' and the 'have nots', to

connect the world's poor to global income streams and take down structural barriers that shut them out of educational and employment opportunities that have the potential of lifting them out of poverty.

To that end, this essay notes the important roles that laws on free movement of people have to play in taking down barriers. It presents four key strategies in the pursuance of the goal of reducing poverty and supporting economic development. First, the enactment of an international right to immigration subject to some restrictions as a compliment to the right in Article 13(2) of the UDHR because the right to leave one's country is not complete without a right to enter another. Second, the removal of all kinds of discrimination practiced by states against various categories of people. Third, harmonisation of educational and skills acquisition programmes and documents across larger regions or subregions to widen the scope of territory across which people can move and find work that matches their skills and educational achievement. Such a measure will also expand access to education and employment, and increase the chances of lifting people out of poverty. Fourth, harmonisation of professional standards to ensure that productivity can go on across a wider range of territory, facilitated by the free movement of people. This will propel economic growth across large subregions or regional groupings.

To summarise, this essay concludes that the free movement of people has a potential to generate economic development and reduce poverty. However, it must be woven into a broader framework of free trade and economic integration measures to be more meaningful. This is because even though welcoming outsiders who do not belong to a particular country is a human thing to do, governments have pressing needs to their immediate constituents, and will not accept burdens that are not primarily their responsibility. This means that the only context within which free movement will be appealing to states is if there is something to gain from it, and to that extent, free movement regimes must be carefully woven into an integrated framework that will ensure that countries are not victims of their economic success by the trooping in of migrants seeking to benefit from them.

Notes

- 1 Aristotle, *Politics*, translated by Benjamin Jowett (Batoche Books 1999) pp 8. Aristotle renders a defence of the prevailing notion in antiquity that, at birth, some are earmarked to be subjects and others, masters over them.
- 2 Eg, Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment of the Economic Community of West African States (ECOWAS).
- 3 François Bourguignon and Christian Morrisson, 'Inequality Among World Citizens: 1820–1992' (2002) 92(4) *American Economic Review* 727–744.
- 4 Max Roser and Esteban Ortiz-Ospina, 'Global Extreme Poverty' (Our World in Data, 27 March 2017) <https://ourworldindata.org/extreme-poverty> accessed 26 April 2019.
- 5 *Ibid.*
- 6 *Ibid.*
- 7 *Ibid.*
- 8 World Bank Data <http://iresearch.worldbank.org/PovcalNet/povDuplicateWB.aspx> accessed 11 December 2018.
- 9 *Ibid.*
- 10 Poverty Indicators www.globalissues.org/article/26/poverty-facts-and-stats accessed 10 December 2018.
- 11 World Inequality Data <https://wid.world> accessed 10 December 2018.
- 12 In hard times, states turn on immigrants. Eg, in 1969, Ghana passed the Aliens' Compliance Order to expropriate the property of aliens and to deport them en masse. The affected group primarily consisted of citizens of fellow West African states, including a lot of Nigerians. In 1983, Nigeria retaliated by deporting Ghanaians en masse during a time of economic hardship across the continent.
- 13 Freedom of Movement www.opensocietyfoundations.org accessed 29 December 2018.
- 14 Jo Shaw, 'Citizenship and Free Movement in a Changing EU: Navigating an Archipelago of Contradictions' in Benjamin Martill and Uta Staiger (eds) *Brexit and Beyond: Rethinking the Futures of Europe* (UCL Press 2018).
- 15 Sonja Nita, 'Regional Free Movement of People: The Case of African Regional Economic Communities' (2013) 3(3) *Regions Without Borders? Regional Governance, Migration, and Social Protection in Africa and Europe* 8–29.
- 16 *Ibid.*
- 17 Executive Order 13769, Protecting the Nation from Foreign Terrorist Entry into the United States, enacted on 27 January 2017.

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Nana Adwoa Baiden

Ghana School of Law,
Accra

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

In the exercise of their sovereign power over their respective territories, states enact laws and formulate policies that influence the entry, exit and movement of people within the state. For least-developed countries (LDCs) and developing countries, these laws can be vehicles to positively affect the standard of living of its citizens, and aid in the global fight against poverty. This essay seeks to explore how laws affecting the free movement of people can reduce poverty and support economic development.

Poverty is the bane of global progress and development. Steps toward the improvement of villages, towns, cities, nations, regions and the world at large have been met with the challenges of widening inequality gaps, social exclusion and the disparity in the standard of living among persons. It is against this backdrop that global and regional organisations like the United Nations, African

Union, Economic Community of West African States (ECOWAS), and the South African Development Community (SADC) have formulated policies, set goals and marked out targets to ensure the progressive eradication of poverty and effect palpable development. The fairly recent Sustainable Development Goals (SDGs), adopted by 193 countries, mirror the world's desire to see an end to poverty, and to realise the peace and prosperity of peoples by the year 2030, ensuring that no one is left behind.¹

There is no standalone strategy in this fight against poverty. It is the synergy of forces – legal, economic, social and political – marshalled from all possible angles, that will deal a final blow to poverty and make real the development agenda. For this reason, the movement of people (within and across national borders) and the laws that affect such movement cannot be overlooked.

This essay will discuss ways of using the law to provoke positive change. It will first explain the relevant terminology, and then lay out a practical work plan, paying careful attention to its applicability, especially within the African context. Properly applied, the proposals presented will work in other LDCs and developing countries outside Africa. The essay concludes with a brief summary of points covered and final recommendations.

Introduction

In 2015, about 736 million people were living in extreme poverty – on less than \$1.90 a day which has been demarcated as the international poverty line.² This was a 1.2 per cent decline from the global poverty rate in 2013. A decline, that is, in all regions except sub-Saharan Africa.³ Of the world's 28 poorest countries, 27 of them are found in sub-Saharan Africa, and the World Bank predicts that, by 2030, nearly nine in ten of the world's extreme poor will live in sub-Saharan Africa.⁴

Economic development is the process that influences the growth and restructuring of an economy to enhance the economic wellbeing of a community.⁵ It is described in terms of objectives that create wealth and improve lives. Over the years, economists have recognised that it is the quality of life that determines whether people are from developing countries or not.⁶ Thus, the economic development indicator is a measure of wellbeing and improvement in welfare.

The free movement of people, recognised as a human right in core international human rights treaties, is the right of persons to move freely within a country, to leave a country and to enter a country of which they are citizens.⁷ Ingrained within this right to free movement is the opportunity to visit places (short-term movement), as well as to change one's place of residence (middle to long-term movement).

Several laws are connected with the free movement of people within and across national borders. However, for this essay, the emphasis will lie on four broad areas of law: regional integration and talent mobility, residency and tourism, internal migration and education schemes. The link between the free movement of people, poverty reduction and improvement in wellbeing may not look immediately obvious, but the essay's considerations along these areas will establish the connection and proffer valid solutions.

Free movement of people: in which direction?

Regional integration: an inwards-out direction

Divisions between and within countries created by geography and poor infrastructure constitute barriers to economic growth and development. Regional integration steps in to overcome these divisions and facilitate the free flow of people, trade, capital and ideas.⁸ Regional integration is the joining of individual states into a larger body with shared interactions.

It has been a strong factor in the economic development of the European Union,⁹ fostering intra-regional trade and strengthening the import and export sector of a country's economy. And what is trade without the movement of people?

Regional integration agreements are governed by international law, and, when properly implemented, they have the potential to revolutionise regions with LDCs and developing countries. By way of illustration, Agenda 2063 is Africa's roadmap initiative to prosperity. To arrive at this, as well as the SDGs, the African Development Bank put across the High 5s for Transforming Africa.¹⁰ The goal of Integrate Africa is to create a regional market by 2025, with regional infrastructure to boost intra-African trade and investment by facilitating the movement of people across borders.¹¹ It is to this end that the Free Movement Protocol was adopted in 2018 to ease travel restrictions for African citizens. Although visa openness indicators show an improvement in visa openness scores across select countries in Africa, this is far from satisfactory.

Intra-African trade has been pegged as playing an all-too-significant role in accelerating economic growth; yet the continent trades little with itself.¹² A seamless and integrated Africa, and integrated subregions within it, will attract investment, create a large market and give it stronger bargaining power. Trade will bring in income, which will translate to national development with the introduction and implementation of grassroots development programmes.

It is further submitted that the free movement of people across borders will address skill gaps, tackle social exclusion and reduce unemployment. This movement of both skilled and unskilled persons takes competent labour to where it is needed most.¹³ Within LDCs and developing countries,

the economic focus is usually on one sector (mostly agriculture) to the detriment of other important sectors. Mobility allows new persons to take up other areas, and develop innovations. All this is in line with Target 10.7 under SDG 10, which reads, 'Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies'.

All this is only possible if states resolve long-standing disputes and embrace regional and sub regional integration under international law.

Residents and tourists: an outwards-in direction

The free movement of people, in keeping with globalisation and regional integration across national borders, is not without challenges: security risks, illegal migration, and the threat of foreigners infiltrating the job market and competing with the local supply of labour. A nation's fears of these risks reflects in its visa, residency and work permit policies.

I shall consider two aspects in relation to these concerns: foreign residents and tourists.

The 2018 United Nations Conference on Trade and Development (UNCTAD) report placed the tourism industry as the world's second-largest trade in services.¹⁴ International tourism bodies, such as the World Tourism Organization, have been leading the quest for visa regime policy changes across the board to help boost tourism,¹⁵ and rightly so. The growth of a nation's tourism industry leads to direct employment and socio-economic benefits for the areas hosting the attractions, as well as foreign direct income. Tourism and movement of tourists puts pressure on a country to ensure peace and stability. State and private sector involvement in this sector also results in infrastructure development.

Tourist visas are primarily used by governments to restrict entry into their countries and raise revenue through charging a visa application fee.¹⁶ For LDCs, visa restrictions and stringent processes may drive away investors and diminish income acquired from tourists' spending. Thus, adopting legislation that allows for visas on arrival for tourists on the payment of a moderate fee will market countries as hassle-free tourist destinations. Rwanda is a case in point. The country's open visa policy (no visa and visa-on-arrival policies for African

countries) secured it a comfortable third place in the Africa Visa Openness Index 2018,¹⁷ and attracted many visitors and greater investment. The 2018 World Travel and Tourism Council (WTTC) *Economic Impact* report states that total travel and tourism contributed 12.7 per cent to Rwanda's 2017 gross domestic product (GDP).¹⁸ As of January 2018, the visa-on-arrival policy was extended to non-African countries. Currently, Rwanda is the second-best place for doing business in Africa¹⁹ and ranks at number one in the global Welcoming Countries Rank 2018 of the Passport Index.²⁰

For the threat of foreign residents supplying excess cheap labour, which may lead to unemployment of citizens, internal laws must be passed to guide non-nationals to take up employment and pursue entrepreneurial innovation in strategic areas. A noteworthy example is the Ghana Investment Promotion Centre Act, which reserves certain enterprises for its citizens such as the operation of taxi services, hawking, petty trading, and the operation of beauty salons and barber shops.²¹ The rationale is that these areas are the mainstay of the average citizen, and to require this citizen to compete with a non-national (beyond the already-stiff competition he or she faces) will be a hardship on the citizen.

Immigration and interior laws should encourage investor participation. The conditions for the renewal of residency and work permits should include the presentation of tax identification numbers, as well as evidence of gainful economy-boosting activity (or in the case of students, education). In South Sudan, for example, a foreign holder of an investment certificate is entitled, among other things, to work permits at the country's immigration office on expiry of the initial two-year period.²²

Internal migrations: an in-around direction

Eighty per cent of the world's extreme poor live in rural areas.²³ The low standard of living pushes many to migrate to urban areas in search of greener pastures. Many are not lucky: they end up on the streets and in slums, where they work from hand-to-mouth and live in poor conditions. Economic development is a holistic improvement in living standards; thus, even if these persons make more money than they ordinarily would have in rural areas, the quality of their lives is still low. To curb the situation where rural-urban migration engenders social

exclusion by leaving the elderly, persons with disabilities and other marginalised groups to fend for themselves in rural areas, the following is submitted:

Tax laws should give location incentives. Rebates and tax holidays must not only apply to 'priority areas' of the economy. They should extend to the setting up of industries and labour-employing startups in deprived communities. Green pastures can be grown at home.

In addition, the subdivisional parts of a political state – provinces, states and regions – must be strengthened. Persons in rural areas often do not receive a fair share of the national cake. When subdivisional parts of a state are empowered, much attention will be paid to their peculiar individual development. Leaders on these levels will ensure that citizens have access to infrastructure and basic social amenities to better their lives.

Education schemes: a cyclical direction

It is estimated that nearly 4.3 million students are enrolled in tertiary-level education outside their country of origin. Although the statistics are tilted in favour of persons from developed countries, students from developing countries also make the move. The reasons for this movement are varied, but the bottom-line aim is the same: to better oneself with the knowledge and skills acquired, and be relevant in society.

It is submitted that states can make the most of this predictable movement of students to reduce national poverty. The state, by instituting educational scholarship schemes to sponsor students to pursue education in focal areas in key foreign institutions and setting laws in place that necessitate them to return to contribute to national development, can tackle brain drain. And not in this instance only. Final-year dissertations and project work for such students must be applicable and relevant to the sending state.

Similarly, for developing countries that host international students, and particularly, in tertiary institutions established by law as body corporates, mandatory field work will engage students and deliver hands-on experience and drive them to lead innovation and change in the host country.

On this point, it is finally submitted that curfew laws for minors be passed. As drastic as this may sound, laws to prohibit the movement of minors at certain times and in certain places will protect them by encouraging their interest in education, and stifling parental inclinations to use them as labour.

Conclusion: moving forward

The focus of this essay has been the liberalisation of the movement landscape for people within and outside national borders by the operation of regional and subregional integration, tourist-friendly visa policy regimes, laws that encourage foreign participation in economic growth, development programmes in rural areas and innovative education schemes.

Extortion and corruption at national border posts, as well as human trafficking across borders can detract from strides that will be made. Criminal law – local and international – must thus be strictly enforced.

In this age of globalisation, the free movement of people is moving the world forward. Properly enforced, the law can play its part in this revolution.

Notes

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**Chimango
Nyasulu**

University of Malawi,
Zomba

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

Introduction

While the definition of free movement varies globally, especially in terms of finding consensus on the essential elements, international legal instruments provide a useful benchmark based on human rights norms. The 1948 Universal Declaration of Human Rights, the 1981 African Charter on Human and Peoples Rights, and the 1966 International Covenant on Civil and Political Rights link the free movement of persons with freedom of movement: the right to leave one's country, the right to return, and freedom of movement and residence within one's own country.¹ These instruments insist that such rights cannot be abridged arbitrarily, but only as 'provided for by the law for protection of national security, law and order, public health or morality'.² This essay will discuss ways in which laws affecting the free movement of people can reduce poverty and support economic development by facilitating trade, communication, psychology, tourism, reduction of unemployment levels and education.

Facilitation of trade

Freedom of movement is one of the four basic freedoms of the single market, the others being the free movement of capital, goods

and services.³ As fraud persists in many areas, it can be said that businesspeople prefer engaging in business face to face to ensure integrity. Laws affecting free movement in a country can encourage businesspeople to conduct inter-trading activities with other countries more freely and at close intervals. This brings in foreign exchange and raises the economy of the country. Therefore, removing restrictions on free movement can ensure that there is free movement of trade, thereby enhancing the growth of the gross domestic product of a nation. This is evidenced by an African Development Bank report,⁴ which stated that African travel to Rwanda has increased by 22 per cent since it eased its visa requirement in 2013. Since then, Rwanda's cross-border trade with Kenya and Uganda has increased by 50 per cent. This has been said to have generated a positive economic impact on the country that is still growing. For instance, in Malawi, most traders are from other countries, particularly from India, China, Nigeria and South Africa. This has spurred growth in trade to an unprecedented level, as a matter of fact, evidenced by chain stores such as Game Stores, Shoprite and Spar, and fast food restaurants, such as KFC and Steers, which are owned by non-Malawians, thereby supporting economic development.

Therefore, it is submitted that laws affecting the free movement of people facilitate trade between nationals of different countries, thereby reducing poverty and supporting economic development.

Facilitates effective communication

It is without question that communication is one of the most important tools for development in a country; a country whose communication is poor does not progress economically. It is through the development of communication that people are able to appreciate the opportunities available in other areas within a country or in other countries. A classic example is in the Malawi context, where people moved in search of opportunities in South Africa upon hearing that there were job opportunities in mines.⁵ This trend continues to date.

Because of free movement, people are able to pursue opportunities that they get through communication; therefore, providing a means of support to their families and enhancing economic development and reducing poverty.

Facilitates improved psychology

Psychology is the study of behaviour and the mind. One of the ways to relax the mind and the brain is through moving from your area to another. People confined in one area are unlikely to bring out productive results compared with people that occasionally move because, in moving, one reduces stress and gets to have time to meditate in a new environment. The workload in the business sector can contribute to daily stress, so with freedom of movement, it can bring about opportunities for people to travel around the world and within their country. This can bring about unlimited exposure to their minds; they are likely to learn new things that can be beneficial to their country. In addition, it can also contribute greatly to their career, for instance, architects can benefit from movement because this means that they are likely to be exposed to new ideas. Therefore, it leads to a country having productive people who can contribute to the economic development of the country. For instance, a good example is in Malawi, where democracy came in 1994,⁶ and this was a time when most Malawians had become educated and had travelled around the world. Their exposure to other countries in the aspect of governance and respect of human rights brought about the urge for a

change to their government too. This resulted in resistance, and fighting for freedom and democracy. If most Malawians had not travelled the world, they would not have been aware of the things happening in the world and they would think that autocratic leadership was a way of good governance. Therefore, laws restricting movement can deny people exposure, limiting their minds and a chance to learn new things, thereby constricting economic development.

Facilitates tourism

Laws that affect freedom of movement facilitate tourism. People are able to visit other countries for leisure without being hampered by strict bureaucratic processes. This helps a country to benefit not only from its productive citizens, but also from other nationals through tourism. According to the African Development Bank,⁷ one of the keys to development and increased growth in an economy is through the tourism industry. In this sense, a country that is visited a lot by foreigners is likely to progress in its economy. For instance, the Seychelles is one of the leading countries that has benefited from the free movement of people through an open visa policy. This resulted in seven per cent annual growth in international tourism between 2009 and 2014. This resulted in the Seychelles' gross domestic product (GDP) reaching \$1.423bn in 2014; by 2015, thanks to increased revenues through tourism, it became a high-income country, with thriving real estate, aviation and service industries.⁸

Facilitates the reduction of unemployment levels

A problem that developing countries face is high levels of unemployment.⁹ Laws affecting free movement can bring about access to job opportunities internationally or locally. When people are not limited in their movement, there is a likelihood of attaining jobs in other areas, thereby reducing the unemployment levels in the country. For instance, the rogue and vagabond laws¹⁰ in Malawi restricted the movement of people at night, therefore obstructing their access to some jobs that extended into odd hours. In addition, people failed to conduct their business at night for fear of being reprimanded. An example is the case of *Mayeso Gwanda v Attorney General*.¹¹ The case dealt with a man who was charged with the offence of being a rogue and vagabond. The Constitutional Court held that section 184(c) of the Penal Code, which provided for the rogue

and vagabond offence, was unconstitutional and therefore invalid. The reasoning of the court was based on its practical application, as it targeted the poor and violated several rights, including the right to privacy,¹² freedom of movement¹³ and right to dignity.¹⁴ Such laws that restrict one from moving at night bar one from freely trading and also subject families to extreme poverty when breadwinners are sent to prison for such petty offences.

By abolishing this law, it meant that a lot of people were free to engage in various economic activities within the country. This, in essence, reduced the high unemployment rate in the country. The productivity and wealth of a country's citizens is arguably the ultimate determiner of economic success. Employment indicators, such as labour force, payroll and unemployment data, estimate how many citizens are employed and whether they are making more or less money than before. The financial markets carefully watch these employment indicators, especially in developed countries that generate most of their income from domestic consumer spending. A fall in employment is often followed by a fall in consumer spending, which can hurt GDP statistics and overall economic growth prospects.¹⁵

Facilitates easy access to education

According to the Malawi Growth and Development Strategy Paper II, Malawi as a developing country does not have quality education like that of developed countries.¹⁶ With the laws on free movement, it makes it easier for students to study abroad without inconvenience. This results in a country getting productive people and reducing illiteracy levels, thereby reducing poverty. Consequently, economic development is fostered in the country. This can be evidenced during the colonial era when it was mostly the people that had gone to study abroad who brought about rebellion and fighting for independence. It was through the learned ideologies that were acquired in other countries through the free of movement of people that they were able to question governments in their particular countries. A classic example of such a person in the Malawi context was Kamuzu Banda, the first Malawian president, who led the country to independence from the British Protectorate.¹⁷ One of the economic indicators of a country is the rate of literate people in that country; if the rate is high, then the country is progressing in terms of

economic development, but if it is low, then the country is not progressing economically.¹⁸ Therefore, it is submitted that laws affecting the free movement of people facilitate access to quality education of nationals, thereby reducing poverty and supporting economic development.

Conclusion

Therefore, in light of the foregoing, it is submitted that laws affecting the free movement of people can reduce poverty and support economic development by facilitating trade, communication, psychology, tourism, reduction of unemployment levels and increased access to education. Accordingly, developing countries are called upon to consider increased freedom of movement of within their frontiers in a quest to reduce poverty and support economic development.

Notes

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Innocent Zimba

University of Malawi,
Zomba

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

For the purposes of the present paper and argument, the working definition of ‘free movement of people’ shall be the definition provided under Article 1 of the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, which defines the expression as ‘the right of nationals of a Member State to enter, move freely and, reside in another Member State in accordance with the laws of the host Member State and to exit the host Member State in accordance with the laws and procedures for exiting that Member State’. The protocol regards the freedom to travel or move goods across the continent as likely to boost the economic integration of Africa. In the majority of countries, there exists various legal frameworks that restrict or accommodate the movement of people from other countries within the respective countries’ borders. There is, however, quite a good deal of evidence that points to the fact that, if legal frameworks are relaxed to allow the free movement of people, there can be robust economic growth vis-à-vis the reduction of poverty. This can be achieved at two levels: a creation of a regional/continental framework¹ or the relaxation of immigration laws, for instance, by the creation of an open visa community.² The African Development Bank Group Regional Integration Policy and Strategy (RIPoS) 2014–2023 has noted that ‘free movement of people is the hallmark of regional economic integration, facilitating trade and economic growth across the continent’ and impacts considerable economic benefits of both temporary and long term to the economies in the region. It has also been noted by Akinwumi Ayodeji Adesina, the president of the African Development Bank Group, that ‘it is the free movement of people, together with

the free movement of goods, services and capital, which is the lifeblood that will sustain Africa’s integration’.³ Thus far, it is conceded that laws affecting the free movement of people have the greatest potential to reduce poverty and support economic development, as discussed below.

First, laws favouring the free movement of people can be expected to enhance tourism. According to an African Development Bank report, tourism in the Seychelles increased by seven per cent annually between 2009 and 2014 when the country abolished visas for African nationals, and by 2013, it had become a high-income country, with thriving real estate, aviation and service industries.⁴ The same report states that African travel to Rwanda has increased by 22 per cent since it eased its visa requirements in 2013. Since then, Rwanda’s cross-border trade with Kenya and Uganda has increased by 50 per cent. The removal of the visa requirement or the provision of visa upon arrival acts as an incentive to many people to freely, at any time without limits, enter and spend in such countries. The strict requirement of visas limits this potential. The case of the Seychelles removing the visa requirement and allowing people to come into its territory freely has helped in its economic growth as the African Development Bank report shows. This was also well summarised by Dr Nkosazana Dlamini Zuma, the then-Chair of the African Union Commission, when she stated that the free movement of people, ‘through more liberal visa policies fosters tourism (for leisure or business), facilitates trade investments, helps fill gaps in the labour markets, allows young people to study anywhere on the continent and creates jobs’.⁵ Therefore, the enactment of laws abolishing or lessening visa requirements and allowing the free movement of people has proved to be one of the good ways through which

laws can be used to reduce poverty and support economic development. Thus, it is recommended that countries, through the amendment of existing laws, remove visa requirements and allow free entry into their respective countries.

Second, laws that favour the free movement of people are more likely to facilitate trade and investment than those that are more restricted.⁶ The facilitation of business and investment eventually leads to the greater economic growth of the receiving state. This results in significant increases in trade and investment among African countries, rising to unprecedented levels and strengthening Africa's place in global trade.⁷ Recognising this value of the free movement of people, the Southern African Development Community (SADC) Immigration Sub-Sub Committee and other Experts Consultative Meeting on Free Movement of Persons & implementation of the African Passport [sic] urged SADC Member States that have not signed, ratified and acceded to the SADC Protocol on the Free Movement of Persons and those that have not relaxed their visa regimes for SADC citizens to do so. The growth in trade, business and investment would normally mean a reduction in poverty, to a large extent, and an improvement in the economies of Member States.

Third, in an environment in which the law facilitates the free movement of people, there are usually low levels of unemployment. In Europe, for instance, according to a report by the Organisation for Economic Co-operation and Development (OECD), the average unemployment rate has lowered by six per cent in Europe arising from the adoption of free movement within the European Union (EU).⁸ This is the case because, for Member States of the EU, citizens are free to secure employment in any Member State. Similarly, in Africa, and related to the abolition of visas, people could be able, without impingement, to secure employment anywhere on the continent or in a region providing for the free movement of people. Subject to macroeconomic and microeconomic factors, people could be able to move from economically unstable to economically stable countries to secure improved employment. For instance, in South Africa, there are numerous jobs that are considered demeaning by the citizens of South Africa, yet considered good jobs by people from Malawi or Zimbabwe.⁹ Such jobs are capable of

improving the individual economic status of those undertaking such jobs. Because people from Malawi or Zimbabwe cannot freely move to South Africa, however, they tend to go to illegally. If, however, there were laws providing for free movement between these countries, there would be legal acquisition of employment. Consequently, as the case of the EU has shown, the enactment of laws that facilitate the free movement of people would lead to the reduction of the high levels of unemployment on the African continent, or even in the regions, and hence a reduction of poverty and a mile further in support of economic development.

Furthermore, laws that provide for the free movement of people can help in the facilitation of the trade of locally-produced farm produce; mostly for those living on countries' borders. This can be illustrated by the cases of Malawi and Zambia, which rely heavily on agriculture for their economic growth and sustenance. Many people living on the borders of these two countries are small-scale farmers. There are times when prices for farm produce are better in Zambia than Malawi, and vice versa, so farmers are forced to sell their farm produce illegally to a neighbouring country for a better price. The danger is that, if they are caught offering farm produce to a neighbouring country with better prices, their goods will be seized. However, if people were legally allowed to move between these two countries and trade, they would be able to offer their farm produce to markets with a better price. This has the potential to reduce poverty and guarantee economic development, both for individual farmers and the nation at large.

In the same vein, the laws that provide for the free movement of people could benefit Africa and its Member States by the establishment of one market. This is the consequence of people being free to move and trade wherever they want without too many restrictions. Such a vibrant market would attract competitive prices for the goods on offer for sale. This can indeed be differentiated from the country's internal markets, which as a result of a lack of competition, goods are sold and bought at lower prices than is reasonable. In the course of such dealing with better prices, there is also an improvement in the economic reality of both the countries involved and their citizens.

Conclusion

In conclusion, as has been noted above, there is a need to have laws that favour the free movement of people. The SADC should be praised for the initiative of coming up with the SADC Protocol on the Free Movement of Persons, which has realised that a community is only possible where the citizens of the community enjoy freedom of movement of persons. Similarly, on the continental level, the African Union through Agenda 2063 advocates for, among other things, political unity, which will be the culmination of the integration process. The integration process includes the free movement of persons and the establishment of continental institutions leading to full economic integration by 2030. As discussed above, if the free movement of people is provided for in national laws or treaties, this has the potential of reducing poverty and supporting economic development. There is potential for an increase in the tourism business, which subsequently brings in lots of income and businesses. Furthermore, there can be the facilitation of trade and investment, which will lead to the creation of numerous jobs. As a result, levels of unemployment will tremendously decrease. Not only that, there could also be the facilitation of the trade in local farm produce by making sure that there are competitive markets, mostly around countries' borders. Finally, the free movement of people can help in the creation of one market for the concerned members. This market, subject to the rules of supply and demand, can provide better prices for goods bought and sold, and services provided.

Notes

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Andrew Kakanda

University of Zambia,
Lusaka

lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

It is undisputed that the free movement of people across nations can have social, economic and political consequences on both the nations of their origin and the host nations. This is evident across nations today. The aim of this essay is to explain how laws affecting the free movement of people can reduce poverty and support economic development. This will be done by demonstrating a link between the impact of the laws affecting the free movement of people, with poverty reduction and economic development.

One of the ways in which laws affecting the free movement of people can reduce poverty and support economic development is through the attraction of talent across nations with minimal or no training costs in the host nations. Nations with progressive laws that support the free movement of people are likely to attract talent and rare skills that are critical in the development of their industries that can ultimately contribute to poverty reduction and support economic development. This is not only true for developing countries but also developed countries. For example, trade experts in the United States argue that, arising from a backdrop of the trade war with China, what the Trump administration should do to help US technology companies is to enact better immigration laws and policies, and not restrictive policies and laws. They further argue that restrictive laws and policies encourage US companies to place more resources and people in foreign countries.¹ One implication of such policies and laws is that they shift much needed jobs and contributions to economic development to foreign countries.

Closely related to talent and skill is the factor of foreign direct investment (FDI). Laws affecting the free movement of people play a critical role in attracting FDI in many

countries. FDI creates jobs opportunities, facilitates technology spillovers (transfers), helps to create a competitive business environment and enhances the development of small and medium-sized enterprises (SMEs), which all contribute to economic growth, which is a very powerful tool for poverty eradication.² However, there are other factors that are conducive to the inflow of FDI in a country. Before an investor makes a decision to invest in a particular country, it has to factor in the sufficiency of skilled workers in that particular country.³ If the host country does not have sufficient skilled and qualified local people to be used, then the investor has to look at the possibility of using expatriates, and that is where laws affecting the free movement of people come in. Before the investor uses expatriates to work on its investments, it has to assess whether the host country's laws allow for the free movement of skilled and qualified people from other countries. If the host country's laws are too strict on the free movement of people, including skilled and qualified workers, from other countries, then this deters the inflow of FDI as it implies that potential investors will not have the skilled and qualified workers that they require to work on their projects. Considering the impact and importance of FDI in reducing poverty and supporting economic development through job creation, technology and skill transfer among others, it therefore follows that laws that support the free movement of skilled and qualified workers can reduce poverty and support economic development as they are a prerequisite to attracting FDI.

Another way that laws affecting the free movement of people reduce poverty and support economic development is that they act as catalysts for the free movement of people across borders for economic reasons, such as seeking employment and setting up

business enterprises across borders, which all have a multiplier effect in the form of international remittances to their home countries. International remittances are the money and goods that are transmitted to households by migrant workers that work outside their countries of origin.⁴ International remittances have a substantial impact on eradicating poverty and enhancing economic development in developing countries. This is supported by evidence from a study conducted in ten Asian developing countries, where it was shown that international remittances had a significant impact on poverty reduction.⁵ Therefore, it can be deduced that laws that support the free movement of people (rather than hindering them) can contribute to poverty eradication and support economic development by supporting the free movement of entrepreneurs and skilled workers across borders. Entrepreneurs and people seeking employment in other countries transmit money and goods to their home countries (international remittances), which contribute to poverty eradication and economic development in their countries of origin.

It is clear that laws affecting the free movement of people reduce poverty and support economic development in different ways. Prominent among them is the fact that they are a prerequisite to attracting FDI, which creates jobs and wealth for the

host country and local people. Additionally, laws affecting the free movement of people facilitate international remittances from workers used in other countries. International remittances are one of the biggest contributors to the gross domestic product of some countries, and contribute significantly to poverty eradication and economic development.

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How can laws affecting the free movement of people reduce poverty and support economic development?

Stella Amanuel Araya

Adi Keih College of Arts, Asmara
lexlead@yahoo.com

Some years ago, a story about Elias was told through a series of articles published in the Eritrean National Newspaper, *Hadas Eritrea*. Elias' story shocked the Eritrean public as it told how Elias, a survivor of brutal human trafficking, was bruised, tortured and emotionally depressed, and finally managed to save his neck by paying an excessively large sum of United States dollars. I dedicate my essay to all Eliases of this world. May their voices be heard!

Introduction

In a world that is choked by the narrow horizons of bureaucratic legal systems, jailed by national security, this story is the best argument I can conceive for returning to a conception of free movement.

Freedom of movement is one of the fundamental, foundational, constitutional, unavoidable and inviolable human rights. It incorporates the right to enter (return) for nationals, the right to leave for both nationals

and non-nationals and the right to stay. The movement can be within a territory or cross-border by nationals or aliens.

When it comes to movement, the main actors are individuals and the government. Individuals leave home for various reasons such as to find a job, to visit family, to get a better education or medication and an improved life. On the other hand, an individual's right to movement may be stringently restricted by the government to prevent crime or to protect national security, public safety, public order, public morals, public health or the right and freedom of others.

Mechanisms for the restriction of movement

Different nations apply different mechanisms to restrict the free movement of citizens.

Some of them are:

- curfew: requires people to remain indoors after a specific time;
- check points: obliges individuals to hold a special document to pass every check point;
- home arrest: imposed upon political and influential persons; governments use this to suppress their opponents under the guise of national security; and
- using complicated procedures to grant travel documents, such as passports, entry visas and exit visas.

The evil consequence of the restriction of free movement

Almost no governments allow absolute free movement; many limit it for reasons of national security and the like. Restrictions on the right of free movement have increased the problems of human trafficking, and the exploitation of migrants has intensified forcing individuals to exercise their rights of movement illegally, contracting with smugglers or crossing borders by themselves and falling to the mercy of ruthless traffickers. Trafficking and smuggling exploit the vulnerability and desperation of migrants and extract profits from their plight. This has made many innocent individuals, especially women and children, who thought of finding a family and living their lives, ending up instead as sex slaves. Not only this, but the traffickers and smugglers demand an enormous amount of money from families of victims in order to set victims free.

Nowadays, nothing could be more important than this issue, therefore immediate steps must

be taken to design a multilateral policy that provides for uniform and transparent rules for the cross-border movement of people, and balances the interests of both migrants with the countries of origin and of destination. As the International Labour Organization's (ILO's) Commission on the Social Dimension of Globalization described it, '[a]ll countries stand to benefit from an orderly and managed process of international migration that can enhance global productivity and eliminate exploitative practices'.¹

Migration as a factor in development and poverty reduction

The House of Commons International Development Committee (the 'Committee') found that a slight relaxation of restrictions on the movement of workers increases the proportion of migrants in the workforce of developed countries by up to three per cent, which would deliver global gains of perhaps \$150bn per year.² Free movement stands to deliver substantial financial gains and economic prosperity, which could be used for poverty reduction. The Committee also found that migrants are attracted by the possibility of employment, better standards of living, greater opportunities for personal and professional development, and family reunification, whether their journey takes them to a nearby town, to the capital city, to a neighbouring country or to a distant land.³ As the New Economics Foundation put it, 'although international travel is cheaper and more accessible than at any other time in history, the cost of a plane or train ticket is still well beyond the reach of the majority of the world's population.'⁴ For unclear political reasons, under the guise of national security, a bottle of wine has far greater rights of free movement across the world than someone in the developing world, despite the fact that people living in absolute poverty and the makers of the bottle of wine would prosper more if freedom of movement was guaranteed. There is a difference between the free flow of goods and the free movement of people, and a need to balance the right of sovereign states to control their borders and pursue their national interests. Individuals' rights to mobility immigration add a quarter of one per cent to growth in terms of gross domestic product (GDP).⁵ Nations, by exercising free movement, create a golden opportunity for individuals to accumulate capital and various

skills, and to work in a context where their labour, skills, talents, abilities and resources can be employed more productively and for greater reward. Free movement can, in the first place, provide an outlet for reducing unemployment and increasing wages, and improve the standard of people's lives. It can also prompt people to pursue higher education, to generate remittances, enforce globalisation and economic prosperity, lead to the return migration of people with new and ameliorated skills, expose developing countries to new ideas and values, and establish links that may be used in the future for trading and business purposes. When these emigrants get back to their motherland, they can get involved in investments that have transformative potential.

The absence of free movement accrues people's incentives to move through illegal channels. This prompts trafficking and smuggling within and between developing countries. It often involves violence and deception, and is done with the purpose of extracting high profits by imposing forced labour or sexual exploitation on the migrants. There is, for instance, a booming trade in women and children in Southeast Asia for prostitution and sexual exploitation, and widespread illegal movement of children in West Africa to work in conditions approaching slavery.⁶ Illegal migration is not development-friendly or economically affordable, and it is risky and minimises the development benefits of free movement.

The profits extracted by traffickers and the amount paid to smugglers are resources wasted and lost to migrants and their motherlands. Migrants who enter a country illegally by the aid – consensually or violently – of traffickers and smugglers are every now and then exposed to further exploitation and hardship. They are often subject to inhumane living conditions, to pitiful wages, accruing large debts and subjected to ruthless handling. This destroys their ability to save, to remit and to return to their home countries. The majority of the time, illegal migration takes place when there is a demand for migrant labour in host societies, a supply of willing migrants in home societies, and a lack of legal channels to link this supply and demand.⁷ If nations allow free movement, migrants would gain access to productive, well-paid, secure and formal employment, which would make good use of their skills, and they would be able to make use of them

on their return to their home countries. They would also be exposed to new ideas and ways of doing things, some of which may be usefully continued or adopted after the migrant's return.

Furthermore, developing countries would be able to see the return of their people – their human capital – more development benefits could be had from migration. More simply, progress could be made in simplifying visa arrangements and controlling the actions of unscrupulous agents who control access to the recruitment process.⁸ Economic theory suggests that increasing the mobility of labour increases the size of the global economy, offering scope for migrants, developing countries and developed countries to benefit.⁹ Economic modelling predicts that the global welfare gains from a modest increase in the volume of migration – as described above, increasing to three per cent the proportion of the developed world's workforce made up of migrants from developing countries – would be large, perhaps in the order of \$150bn per year.¹⁰ The Committee also observed that 'it is more than twice the current volume of aid, three times the estimated amount of additional aid flows needed to finance the [Millennium Development Goals] MDGs, and one and a half times the predicted gains from fully liberalising trade in goods and services'.¹¹

Remittances

Migrant workers' remittances are an increasingly important source of finance for many developing countries. The Committee found that '[b]y 2003 remittances sent by migrant workers to developing countries through official channels had risen to \$93 billion from \$20 billion in 1988 and just \$2 billion in 1970'.¹² It also found out that '[g]lobal remittance flows far exceed the flow of aid, and are second only to Foreign Direct Investment (FDI) as a source of external financing for developing countries.'¹³ Remittances can provide developing countries with a tremendous amount of resources, enabling them to narrow the trade gap by accruing foreign currency reserves and linking with developed countries, to service their debts and to make progress in reducing poverty and stepping a safe haven to development. World Bank studies suggest that 'on average a ten per cent increase in

the share of international remittances in a country's GDP will lead to a 1.6 percent decline in the proportion of people living in poverty'.¹⁴ This denotes that remittances are golden and valuable sources of finance for developing countries because they tend to be more consistent and predictable than other financial flows, such as FDI and portfolio investment. It was also found that 'remittances tend to be counter-cyclical, providing some buffer against economic shocks, because migrants send more money home when their families and communities are in need'.¹⁵ The Committee reported the observation of a Sierra Leonean migrant, who is quoted to have said, '[a]t the household level, remittances can be a major source of income. For instance, in Senegal, the figure is reported to be ninety percent, without the remittances, it is almost a zero life for most families in Sierra Leone'.¹⁶

Diaspora networks

In addition to channelling financial resources, diaspora networks can also be the basis of business partnerships, trade and flows of investment, tourisms, fundraising, philanthropy and so on. People's exposure to new skills, ideas, knowledge and experience is guaranteed as long as free movement is exercised. The Committee said that '[r]eturn, including temporary return, allows home countries to benefit from these resources, and has the potential to transform the "brain-drain" into a "brain-gain" for developing countries'.¹⁷ Free movement prompts opportunities for learning and a stimulus to social invention and innovation by exposing people to different cultures, ideas and values. Foods and products of the country of origin can create markets for those products in the immigration country, accelerating local production and international trade.

Conclusion

Free movement can meet labour shortages by allowing overseas workers to take temporary jobs when an economy is booming. It also prevents wage inflation, enables the creation of additional demand and flexible labour markets, the filling of undesirable jobs, and the reduction of regional inequalities and demographic challenges. One of the important observations made by the

Committee is that '[i]f a proper forum is provided in which ground rules for migration management could be agreed and countries' compliance with them monitored and if necessary enforced, then it would be an important step towards making migration more development-friendly'.¹⁸ Economic theory suggests strongly that migration will increase global economic output, giving greater scope for win-win outcomes.

Recommendations

- Open up more transparent and efficient channels for lawful movement.
- Governments of other developed countries need to address the issue of sex tourism, which risks the exploitation of women and children.
- Ensure that existing legislation that protects the rights of migrant workers is guaranteed. There is plenty of scope for win-win outcomes.
- Design effective mechanisms for achieving policy coherence between government actors/bodies and the potential of migration to capture trade, labour and development benefits.

Overall, free movement is best when it takes place within a framework of law and policy that looks after the interests of those who move, receiving communities and those left behind.

Notes

- 1 House of Commons International Development Committee, *Migration and Development: How to Make Migration Work for Poverty Reduction* (Sixth Report of Session 2003–04 Volume I) 71.
- 2 *Ibid* 9.
- 3 *Ibid* 19.
- 4 *Ibid* 20.
- 5 *Ibid* 23.
- 6 *Ibid* 33.
- 7 *Ibid* 34.
- 8 *Ibid* 44.
- 9 *Ibid* 41.
- 10 *Ibid*.
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- 13 *Ibid*.
- 14 *Ibid* 56.
- 15 *Ibid*.
- 16 *Ibid*.
- 17 *Ibid* 65.
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The sponsor supporting Stella Amanuel Araya's award is Mr Stuart Kerr.

How can laws affecting the free movement of people reduce poverty and support economic development?

Ivy Akuzike
Nkhata

University of Malawi,
Zomba

lexlead@yahoo.com

Introduction

The free movement of people across the global landscape often stirs mixed reactions.¹ Some scholars have championed the free movement of people on grounds that it presents benefits ranging from increased investment and job creation, to increased integration and deeper intra-regional trade.² Other scholars have, however, argued that the free movement of people is saddled with repercussions,³ among them that the free movement of people can ignite and exacerbate an increase of cross-border criminal and terrorist groups, such as Boko Haram, Isis and al-Shabaab.⁴ Allowing free movement of people may also entail the proliferation of contagious epidemics and public health risks across borders.⁵ Against this background, this essay attempts to critically discuss how laws relating to the free movement can reduce poverty and support economic development. It will be revealed in this essay that, despite the above fears, laws promoting the free movement of people are instrumental to and constitute a powerful means of enhancing socio-economic development. In contrast, restrictive laws that seek to curtail the free movement of people undermine economic development. It will further be established in this essay that the benefits of implementing the free movement of people outweigh the costs and the related challenges of implementation.

Conceptual framework

First, it is worth noting that the concepts of free movement and poverty have occupied the minds of human beings for a long time. Subsequently, the two terms have been the subject of much discussion and debate in various circles of society.⁶

However, despite a plentiful array of publicity and discussion, the definitions of the concepts have remained heavily contested, particularly in terms of reaching consensus on essential elements.⁷ Despite this, however, international legal instruments provide a useful benchmark for describing the two. With regards to free movement, the Universal Declaration of Human Rights (1948), the African Charter on Human and Peoples' Rights (1981), and the International Covenant on Civil and Political Rights (1966) link the free movement of people with freedom of movement: the right to leave one's country, the right to return and the right to move freely within one's own country.⁸ According to these three international instruments, such rights are not absolute;⁹ but the rights also cannot be limited arbitrarily. Notably, permissible limitations to freedom of movement must be as provided for by law for the protection of national security, law and order, public health or morality, among others.¹⁰ From a reading of these three instruments, it can be argued that the free movement of people refers to movement that underpins the right of people to move, reside and be established freely within the territory of any country.

With regards to poverty, the *World Bank 2000 Report* is instructive. Accordingly, poverty refers to the lack of what is necessary for material wellbeing, especially food, housing, land and other assets.¹¹ The definition hinges on a lack of capacity to attain human potential as being poverty. The World Bank further propounds that poverty is a multidimensional social phenomenon. In that connection, poverty has numerous dimensions, including income poverty, education poverty and security poverty, among others.¹²

Analysis

According to a famous British legal philosopher, the law is a powerful tool in configuring society.¹³ In light of this proposition, law has, since time in memorial, been used to achieve desired effects in society, such as promoting economic growth, human rights and democracy.¹⁴ Evidently, law has been one way that countries have tried to address problems affecting society, such as poverty, inequality and development.¹⁵ Without doubt, laws affecting the free movement of people are considered a pivotal tool for economic development and poverty reduction.

Laws affecting the free movement of people can be broadly divided into two categories: those more liberalised and those more restrictive. These two broad categories affect poverty reduction and support economic development in different ways, some of which are highlighted below.

First, more liberalised laws on the free movement of people, contrary to more restrictive laws, have the potential to facilitate movement for a number of other economic actors, such as small-scale traders and small-scale entrepreneurs.¹⁶ This is advantageous as it allows such individuals to pursue a livelihood that is essential to enable them to purchase the basic amenities of life, such as food, shelter, clothing and medication. This in turn reduces their households' poverty.¹⁷ In the long run, the mushrooming of small-scale trades directly promotes the economic development of countries as it enables states to generate much needed revenue and remittances necessary to meet developmental aspirations.¹⁸

What is more is that liberalised laws on the free movement of people would entail the free movement of human capital.¹⁹ Bearing in mind that countries' human capacities vary, the free movement of people is laudable as it allows people with different sets of skills from developed countries to plant their knowledge within different countries, leading to the transference of essential and unique innovation, and optimal utilisation of human resources.²⁰ To that end, free movement bridges the gap between a skills surplus and deficit among states.²¹ This state of affairs would enable individuals from the least developed nations to improve their ways of making money, which promotes their monthly income, thereby reducing poverty. Furthermore, the free movement of people

is instrumental in addressing unemployment for surplus skilled labour among states.²²

The nexus between employment, poverty and economic development can hardly be exaggerated. If more people are employed, they can manage to fend for their families, and if more people are employed in a community, chances are high that the community will be developed. Henceforth, the free movement of people brings employment, which spurs economic growth.

Apart from that, liberalised laws on the free movement of people can help promote tourism.²³ It is a palpable fact that tourism has, in recent times, been a trade that has metamorphosed people's economic standing, particularly in light of the jobs that come with it and the business itself.²⁴ Without a shred of doubt, tourism is beneficial in reducing poverty and boosting economies, as is evident in states that have relaxed and opened up their borders on the basis of *gratis* visas or visas on arrival.²⁵ For example, tourism in the Seychelles increased by seven per cent annually between 2009 and 2014 when the country abolished visas for African nationals.²⁶ Subsequently, it has become a high-income country with thriving real estate, aviation and service industries arising from increased revenues. This evidence, and other observed cases, is indicative of the fact that relaxed laws on the movement of people promote the free movement of labour and capital, thereby boosting economic activity.

While liberalised laws for the free movement of people are laudable and to be championed, this must be balanced against the risks that it also presents. Most notably, the free movement of people can also translate into the free movement of criminal and terrorist groups, such as Boko Haram, Al-Qaeda, Isis and al-Shabaab²⁷ as well as the proliferation of epidemics and public health risks across borders.²⁸ But while that is the case, overall, the benefits of implementing the free movement of people outweigh the costs and related challenges of implementation.

In the final analysis, it remains to be said that restrictive laws on free movement inhibit many people for travelling to establish various business or seek job opportunities. While it may sometimes prevent cross-border criminal gangs and terrorism, it does not foster inter-country trade. Henceforth, compared to liberalised laws, restrictive laws do not translate to poverty reduction and general economic development.

Conclusion

In conclusion, it can be said that laws affecting the free movement of people are twofold, *ipso facto* they affect poverty reduction and economic development in two broad ways; on the one hand, liberalised laws on the free movement of people promote benefits ranging from increased investment and job creation, to increased integration and deeper intra-regional trade.²⁹ This has the potential to reduce poverty in individual households and boost economic development in countries at large. On the other hand, restrictive laws on migration may limit economic integration, job opportunities, and intra-regional and world trade. Without doubt, the free movement of people has its own demerits, such as threats of terrorisms and epidemics. But while this is the case, the author contends that the benefits of implementing the free movement of people far outweigh the costs and related challenges of implementation.

Notes

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- 8 Art 13 of the Universal Declaration of Human Rights (1948), Art 12 of the African Charter on Human and Peoples' Rights (1981) and Art 12 the International Covenant on Civil and Political Rights (1966).
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- 24 See n 4 above.
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- 29 See n 2 above.

The sponsor supporting Ivy Akuzike Nkhata's award is the International Bar Association Foundation.

**Momodou
Manneh**

University of the
Gambia, Banjul
lexlead@yahoo.com

How can laws affecting the free movement of people reduce poverty and support economic development?

Law generally, is any regulating principle or rule that among other things safeguards the freedom of those it governs. Hence, a solid law must reflect the wishes and aspirations of all. The constitutional lawyer, Dicey, considered the role of law as to guarantee and protect individual freedom against an increasingly powerful and interventionist state.¹ Individual movement is linked to individual liberty. Many around the world have suffered, and continued to suffer from harsh and repressive migration and immigration laws. The recent ballyhoo of Donald Trump has buttressed the cornucopia of confusion that plagues investors and immigrants and, by extension, law-makers and adjudicators.² At the outset, laws affecting freedom of movement seem premised on legitimacy and security,³ and, for the most part, are considered quite innocuous. Thus, leaving confused spectators and commentators bewildered as to where and how to draw the lines: the latitude of security and the longitude of human rights. Until fairly recently, the international community has been jolted into perusing this somewhat neglected, though significant, reality.⁴ With the rise of human rights and humanitarian law, refugee laws and employment laws, there seems to be light at the end of the tunnel. However, the lack of solid, well-defined legislation catering for immigrants appears to hamper the progressive realisation of these goals.

This essay will examine the key issues of economic prosperity and diversity as regards to migration and refugee status, undocumented immigrants and those documented but with restrictions, and the role of international law – specifically international migration law – in the modern world. In addition, this essay will examine those that migrate for reasons of natural causes, and what I like to describe

as the migration theory dichotomy: are immigrants evil, laden with problems, or can they make meaningful contributions toward the world economy?

The reasons that usually lead to restrictive immigration laws are stated by Stacy Ragsdale thus: ‘...economic downturn, a shift in the type of jobs that are now available, and the unauthorised status of many immigrants are some of the causes impeding today’s immigrants from integrating more easily. Furthermore, competition for the few available jobs on the market is causing anti-immigrant sentiments, which in turn, generates unfavourable immigration laws’.⁵ In fact, the author very astutely states that anti-immigration legislation leads to an increase in illegal migration – work is a necessity, and no amount of restrictive legislation will stop people from trying to survive. Therefore, what can be done to enhance the free movement of people in order to alleviate poverty and foster economic development is intertwined in the very fabric of this essay.

To start with, do restrictive immigration laws engender better employment opportunities, less competition for jobs and a lower tax burden for natives? These are some of the questions asked by labour economists.⁶ The massive differences in income across countries allow individuals and households to escape from poverty through international migration – to seek jobs, investment, permanent residence and asset speculation.⁷ Fundamental human rights are the bedrock of democracy. These include the free movement of information and individuals, freedom to associate and freedom of belief. In essence, the free movement people is one of the four basic freedoms of the single market – the others being the free movement of capital, goods and services.⁸ International law has a myriad of laws pertaining to, but not exclusively on, immigration and free

movement. The International Covenant on Civil and Political Rights (ICCPR) 1966 laid the foundation for the free movement of individuals. It protects, inter alia, the rights of free movement within a country and choice of residence.⁹ International migration is the movement of people across borders to reside, permanently or temporarily, in a country other than their own country of birth or citizenship.¹⁰

However, the lack of a single international instrument has not made the situation any less easy to deal with. Thus international migration law as a separate and distinct body of law will go a long way to protect immigrants and enhance economic development. If, as some have claimed, that one cannot discover the nature of international law by reference to a definition of law predicated upon sanctions and states do not feel the necessity to act in accordance with such rules, then there does not exist any system of international law worthy of the name.¹¹

For example, much of the legislation addressing this sacred issue is either regionally based or internationally deficient. For example, legislation is exclusively dedicated to 'Member States' and, by far, only citizens of Member States are beneficiaries. Thus, for members of the European Union, free movement is defined as, 'the right to enter and circulate within the territory of another Member State, as well as the right to stay there, to work and live under certain conditions, after occupying a position of work...'¹² Examples given are Article 3 of the Treaty on the European Union, Article 45 of the Charter of Fundamental Rights and the jurisprudence of the Court of Justice of the European Union.¹³

Second, under the guise of curbing terror and protecting their citizens, many states have restricted the influx of immigrants into their territory. The Human Rights Committee has stated that restrictions should not only serve the permissible purposes, they must also be necessary and proportionate as enshrined in Article 12 (3) of the ICCPR.

Eating nothing, driven by fear and welcomed by none, refugees cavalcade at borderless borders in turn. In light of the fact that most people affected by restricted free movement are refugees in dire need of a safe and secure abode, refugee laws should lay a strong emphasis on providing social security for refugees. Social security schemes will help to accentuate the rather deflated status of immigrants, giving them what they would

otherwise not have been entitled to but for their status. As undocumented immigrants are compelled to leave, the labour market depreciates in productivity and efficiency of service. Businesses will need to consider the pipeline of skills and talent within the resident labour market for all companies operating in these regions and, in turn, this impacts medium to long-term business goals.¹⁴

Likewise, the Global Migration Group recalled that the fundamental rights of all persons, regardless of their migration status include, inter alia, '...the right to protection of economic, social and cultural rights, including the right to health, an adequate standard of living, social security, adequate housing, education, and just and favourable conditions of work'.¹⁵ This will reduce poverty immensely. A classic example of how free movement can engender economic development and reduce poverty is the United States. According to immigration expert Joseph Chamie, the United States relies heavily on immigration to keep growing as a nation. In fact, he opined that, without immigration, US population growth would decrease by as much as 80 per cent.¹⁶ The United States is at the epicentre of the world economy and also human rights. Thus, in addition to expanding its economy, it will in turn be providing services for non-citizens, and the remittances earned by these people through social security and other means could help to alleviate poverty. There are over 258 million migrants around the world, at present.¹⁷

Analytically, recent studies have shown that a plethora of immigrants are skilled and labour effective: they are willing to work. Hence, in furtherance of equal opportunities for migrants, in 2010, the International Labour Organization (ILO) in the publication *International Labour Migration: A Rights-Based Approach* 'estimated that in 2010 some 105 million of the then-total of 214 million people living outside their countries of birth or citizenship were economically active, that is to say employed, self-employed or otherwise engaged in remuneration activity'.¹⁸ In 2005, as much as three per cent of the world's population lived outside their home country.¹⁹ Thus, if, as per the United Nations estimate that, in 2013, some 232 million people were resident outside their country of birth, that would rank them, if they were living in the same country, as the fifth-largest country in the world.²⁰ One has to acknowledge the logical inference that can be

drawn from these two pieces of data: such a country would inevitably rank as the number one booming economy in the world. Hence, laws encouraging integration and assimilation must be espoused and must let skilled immigrants have the same opportunities without fear or favour. Since the adoption of the New York Declaration for Refugees and Migrants 2016, not much has been done towards the realisation of the aspirations enshrined therein.

Additionally, a country must honour its international obligations and treat all its citizens equally and equitably. The free movement of citizens in and out of their countries is a fundamental right.²¹ International and national observers must not get sidetracked and forget the fact that foreign investors are sometimes barred from entry into countries because of the government's desire to monopolise trade and control the market; besides, international law does not allow a country to impose unjustified restrictions on who may or may not enter it.²² Investors create job opportunities, thereby reducing unemployment and alleviating poverty by reducing the price of goods in the market. 'Inequalities and exclusion are harmful not just for the individuals who are disadvantaged, but for society as a whole.'²³

Furthermore, the free movement of many migrants is restricted when their only source of document that can earn them a job is a permit. These permits offer temporary relief for the migrant because they are at least able to send some money back to their country of origin. Thus, immigration laws must enable immigrants to engage in wage-earning employment or self-employment. These low remittances, the limited funds, have a significant poverty-reducing impact in the sending country.²⁴ For example, Brexit is presumed to have hampered free movement among EU citizens – significant restrictions on living and working – and reduced access to public services or welfare.²⁵

Nevertheless, in many instances, it is not new legislation that is needed but effective implementation of that already in existence. The world has always found it cumbersome to make states harken back to international law; thus, lending credence to Shaw's assertion about a notion of international law being a shadowy concept.²⁶ Even though Common Article 1 to the Geneva Convention emphasises state cooperation and no exception to states' obligations, states still continue to restrict free movement in and

out of their territory because existing laws give them latitude to do so for security and public concern. Thus, the most effective way to have laws that are not made nugatory by the lack of state cooperation is to enshrine them in an umbrella version of customary international migration law that national immigration laws draft laws from which no derogation is permitted. This will nip the current crises in the bud, thus clustering free movement, social integration, job security and academic advancement for migrants in one legislation.

The free movement of people includes aid workers – non-governmental organisations (NGOs) such as the UN Children's Fund (UNICEF) and UN High Commissioner for Refugees (UNHCR), and members of the Red Cross and Red Crescent during humanitarian crises. These groups are instrumental to the alleviation of poverty in developing countries.

The issue of climate change is also one of the reasons for migration recently, and is likely to increase it.²⁷ Therefore, those displaced because of *vis major* (natural disasters) should also benefit from good immigration policies. We must remember that under international law, these people are not refugees;²⁸ however, that does not mean that immigration law should not be crafted to support this particular class of migrants; in fact, Chang, in his article, opined that those countries owe a moral obligation to the migrants, '...because of the adverse effect of anthropogenic climate change on their quality of life'.²⁹ In fact, the world enjoys a boost in economy when workers travel from a low-wage country to a high wage country.³⁰ However, I tend to disagree with the notion of labelling migrants based on the course and, possibly, the reason for their flight as economic migrants and environmental migrants. This will give rise to a new discriminatory slur of inequality.

One of the most effective free movement legislations would be a law predicated upon regional collective support because when a crisis occurs, those that suffer, or are likely to suffer, seek a safe haven in their neighbouring countries. Thus, regional blocs must make sure that they institute measures geared towards the alleviation of poverty in times of crisis; they can provide the basic amenities for these immigrants and lay down policy incentives whereby the immigrants will apply for and secure a decent job for themselves. In Europe, America, Australia and so on, regional unions are ready to protect the

rights of their migrant population, which is a negligible amount; developing nations must follow suit.

In conclusion, considering the above-proposed data, the world should look for new ways to enhance free movement and not encumber it. Hence, many states that close their borders to foreigners and foreign investors can hardly make any meaningful contribution towards global economic development and the alleviation of poverty. Social security schemes, regional legislation, effective implementation of existing laws and customary immigration law are all great propositions that merit at least some consideration. It would be ironic if we call the world a global village and, behind closed doors, we surreptitiously implement laws that obtrude on free movement. By the way, villages are expected to welcome those that knock on their doors.

Notes

- 1 Phil Harris, *An Introduction to Law* (Cambridge University Press, 7th ed, 2007) 339.
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- 3 Massimo Frigo, *Migration and International Human Rights Law: A Practitioners' Guide* (International Commission of Jurists, 2014) 157.
- 4 Liliana Lyra Jubilut and Rachel de Oliveira Lopes 'Strategies for the Protection of Migrants through International Law (2017) 5 Groningen Journal of International Law.
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- 6 See n 2 above.
- 7 John Gibson and David McKenzie, 'How Can Developing Country Governments Facilitate International Migration for Poverty Reduction? in Edmundo Murrugarra, Jennica Larrison and Marcin Sasin (eds), *Migration and Poverty: Towards Better Opportunity for the Poor* (World Bank, 2011) 125.
- 8 See www.weforum.org/agenda/2016/09/free-movement-of-people-explainer accessed 29 December 2018.
- 9 Art 12 of the ICCPR 1966.
- 10 Migration Human Rights and Governance, HR/PUB/15/3 (UN) 2015 p 17.
- 11 Malcolm Shaw, *International Law* (Cambridge University Press, 2008) 5.
- 12 Philippe Delivet, 'The Free Movement of People in the European Union: Principles, Stakes and Challenges' (Fondation Robert Schuman, 12 May 2014) www.robert-schuman.eu/en/european-issues/0419-the-free-movement-of-people-principle-stakes-and-challenges accessed 29 December 2018.
- 13 Court of Justice of the EU, 17 September 2002, Baumbast, aff C-413/99.
- 14 PwC, 'What does Brexit mean for freedom of movement and immigration?' www.pwc.co.uk/the-eu-referendum/immigration.html accessed 29 December 2018.
- 15 See n 3 above, 36.
- 16 See nn 5 above, 173.
- 17 See <https://refugeemigrants.un.org/migration-compact> accessed 29 December 2018.
- 18 Migration Human Rights and Governance, HR/PUB/15/3 (UN) 2015, p 20.
- 19 Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, Trends in Total Migrant Stock: The 2005 Revision, 7 April 2006 <http://esa.un.org/migration> accessed 26 April 2019.
- 20 Migration Human Rights and Governance, HR/PUB/15/3 (UN) 2015, p 17.
- 21 Art 12 (4) of the ICCPR, 1966.
- 22 Art 12 (3) of the ICCPR, 1966.
- 23 See n 18 above.
- 24 Edmundo Murrugarra et al, 'How Can Developing Country Governments Facilitate International Migration for Poverty Reduction? in Edmundo Murrugarra, Jennica Larrison and Marcin Sasin (eds), *Migration and Poverty: Towards Better Opportunity for the Poor* (World Bank, 2011) at 125.
- 25 The UK in a Changing Europe, 'What Effect Would Brexit Have on Free Movement?' <https://ukandeu.ac.uk/fact-figures/what-effect-would-brexite-have-on-free-movement> accessed 29 December 2018.
- 26 See n 11 above.
- 27 Howard F Chang 'The Environment and Climate Change: Is International Migration Part of the Problem or Part of the Solution? (2009) XX Fordham Environmental Law Review 349.
- 28 *Ibid* 335.
- 29 *Ibid* 345.
- 30 *Ibid* 347.

The sponsor supporting Momodou Manneh's award is the International Bar Association Foundation.