Is the Protocol on Women and Youth in Trade a bridge too far?

By:

Andrew Karamagi
Sodfa Daaji

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Akin to the proverbial new wine in old skins, the Protocol on Women and Youth in Trade is an ingenious idea whose prospects stand to run afoul of entrenched and systemic forms of discrimination and exclusion. If successfully enacted, the instrument must find its way around economic nationalism (protectionism), vulnerabilities of infant markets in the South, dominance of neoliberal economic thinking, and State dysfunction. Short of far-reaching and deliberate institutional, policy, and legislative reforms at the individual country- and Regional Economic Community (REC) levels, the Protocol runs the risk of being another of those beautiful mechanisms printed on glossy paper, but with no tangible effects to the everyday lives of the billion Africans in whose name it was enacted.

The integration of Africa's more than a billion people, trading in goods and services worth three and a half trillion dollars, is a remarkable opportunity insofar as its novelty, inclusion and target is concerned. African countries have

an opportunity to leverage existing trade relations amongst themselves for a combined Balance of Payments position, and more viable comparative advantage(s) at the continental and global levels. This is more so for sectors like agribusiness, industrialisation, and emerging domains like information and communication technologies, financial services, and turnkey infrastructure projects.

It is, therefore, remarkable that the Assembly of Heads of Government of the African Union committed to expanding the scope and reach of the African Continental Free Trade Area (AfCFTA) Agreement through enacting laws that support the constructive participation of young Africans and women, and nascent business entities (i.e., Small and Medium Enterprises). This commitment extended to integrating cross-border traders who operate on the periphery into the mainstream economy through a more flexible trade regime, and administrative decisions that enable meaningful engagement in value chains. These ambitious plans are encapsulated in the mooted AfCFTA Protocol on Women and Youth in Trade. It is remarkable that the development of the text contained in the Protocol has been informed by consultations with youth and women.

Yet, even with such a level of elaborate preparations, this article contends that there are systemic and entrenched hurdles that are rooted in the governance architecture of States, RECs, and the world as a multilateral entity. It is these deep-seated challenges which need urgent attention and redress before the Protocol is passed into law. In no particular order, these are a) the pitfalls of economic nationalism; b) uneven development of different markets; c) unavailability of long term, affordable credit (especially for SMEs); d) the pre-eminence of neoliberalism, and e) the ineptitude of public institutions.

The Protocol is being crafted at a time when all of Africa’s countries are engaged in the quest for individual economic progress. This necessarily requires individual countries to compete against themselves through whatever means necessary. Competition takes the form of tariff and non-tariff barriers which manifest through prohibitive tax regimes, and/or quotas, embargoes, levies, and in some cases, sanctions. While such decisions will be targeted at Women and youth in these countries will inevitably be the victims of such decisions. With limited mechanisms to dis-incentivise such behaviour or

incentivise positive actions by Member States, the inclusivity objective of the Protocol will be difficult to achieve. The challenge is heightened when, by the existence of trading blocs, whose economic objectives are at odds, if not cross purposes with each other. This article finds as remarkable the enactment of the COMESA—EAC—SADC Tripartite Free Trade Area in 2015, and encourages other blocs to do the same, as a means of enhancing the opportunities arising from a continental free trade area. In its conception, the Protocol should be alive to the adverse effect that the challenge of economic nationalism can have on the participation of women and youth in continent-wide trade.

Secondly, the reality of uneven development (and vulnerability) of different markets is a hurdle that gives an upper hand to the industrialised, affluent West while leaving the developing South with the shorter end of the stick. Whereas the AfCFTA theoretically serves the purpose of distributing benefits across all players, Western trading partners are decidedly stronger in terms of trade financing, production, and negotiation. In such an environment, women and youth need to be deliberately protected by the Protocol—over and above the generic provisions that are designed to facilitate free trade.

In addition, access to finance is an issue that should be addressed by the Protocol, with a view to ensuring access to affordable, long term lines of credit. The commercial banking sector on the Continent is structured to finance large corporations and disinclined to support small- and medium enterprises. It lacks products that suit the peculiar needs of women and youth. Moreover, requirements like collateral security for loans, high-interest rates, and the formalised approach to granting credit lines limit women and youth who do not possess or have access to assets like land. The Protocol needs to address these kinks to ensure effectiveness. At the broader level, the financial and banking services sector needs to be reformed by doing away with difficulties associated with opening bank accounts and effecting payments for transactions across borders.

Our research has indicated an inadequacy or absence of strong intellectual property and product certification regimes at the national and regional levels. This is due to low levels of political interest and limited knowledge on the part of decision-makers- and policymakers. The Protocol should offer opportunities for awareness raising and education so that there is greater appreciation and

advocacy for benefits like intellectual property rights and certification of their products, thereby improving competitiveness and market access.

Although the challenge of corruption is one that is pervasive and impacts all business ventures equally, cross-border trade is rife with concerns about harassment, exploitation, and exploitation. It manifests through extortion, illicit fees, convoluted procedures, and sexual harassment. Young people and women are the most susceptible to such challenges, and the Protocol should provide remedies for the same.

Finally, we are just as concerned about the enactment of this ingenious Protocol in an environment where member states do not have protections for labour rights. Numerous governments on the Continent perceive concepts like minimum wage, occupational health and safety, industrial and labour dispute resolution mechanisms, and unionisation as an irritant for FDI (Foreign Direct Investment). This exposes workers to several hazards and mistreatment without redress. The passage of such an instrument without built-in protection mechanisms will expose women and youth—who form the bulk of participants in cross-border trade—vulnerable.

Consistent with our introductory commentary, the instrument that seeks to improve the stead of women and youth in continental free trade is a step in the right direction. However, the foregoing structural challenges should be tackled if the Protocol is to be the roaring success it is envisaged to be—particularly for women and youth, who are its primary audience.

About the authors:

Andrew Karamagi is a community organizer, lawyer and scholar. His areas of interest are development work, International Humanitarian Law, International Trade Law and Practice Constitutional Law and Public Policy. Karamagi has co-authored in the international journal, Agenda, and has contributed to two book projects on civil society in Uganda and the region. The Constitutional Court of Uganda has rendered four decisions in his favour on issues pertaining to some of the above areas of interest and practice.

Karamagi is a pioneer of the Youth Leadership (YouLead) Program and a founding member of the Young Leaders' Forum Uganda. He contributes opinions for East Africa's newspapers and is a regular panellist on a number of radio and television talk shows.

Sodfa Daaji is a women's rights advocate, passionate about feminist jurisprudence, movement building and knowledge production. She is the Founder of the African Legal Think Tank on Women's Rights, and currently serves as the Program Director of YouLead Africa (Africa Youth Leadership Program). She is an associate at Nawi - Afrifem Macroeconomics Collective, and her previous work experiences span from Greenpeace, the African Union Office of the Youth Envoy, and the Council of Europe. Currently, she serves in the International Advisory Board of the Royal Holloway Gender Institute and in the Steering Committee on Women in Dev.

Sodfa has published multiple articles and papers, and for her work was recognized among 100 most influential people in Gender Policy by Apolitical, and among 100 most influential people of African Descent (MIPAD) in the category of Law and Justice.

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