Free Movement of African Citizens: An Imperative for Continental Free Trade in Africa

By:

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Between the 17th-21stof March 2018, at the Extraordinary Summit of the Assembly of Heads of State in Kigali, Rwanda, 30 Member States of the African Union adopted the Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment. At the same Summit, 44 Member States adopted the African Continental Free Trade Agreement. The signing of the Agreement establishing the African Continental Free Trade Area has been greeted with a lot of fanfare and has also been viewed as the possible *Eldorado*for intra-African trade. While the text of the Agreement if implemented, would significantly improve Africa's trading position vis-a-vis the global north and the far east, there are several obstacles that need to be crossed. One obstacle is the ability of Africans to move within the continent freely either for leisure or to engage in commerce. It is this obstacle that the Protocol on Free Movement is created to address. The Protocol provides for three classes of rights namely: right of entry,

right of establishment and right of residence. These rights are to be implemented in phases and the right of entry being in the first phase. Article 1 of the Protocol defines free movement of persons 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”.

In implementing the right of entry, Article 6 requires Member States to eliminate visa requirements for Africans and permit them to stay within the territory for a maximum of 90 days from the date of entry. While by this definition, Africans may seem to have earned a right to move freely within the continent, in reality, over 70% of African countries still require African nationals to either obtain visa on arrival or before arrival. Furthermore, Article 3(2)(b) of the Protocol permits Member States to impose restrictions by invoking the laws on protection of national security, public order, public health, the environment, and any other factor that would be detrimental to the host State. The pertinent question that needs to be asked is how African citizens can trade freely with each other when they cannot easily access the borders of the countries where they may intend to trade? The Africa Visa Openness Report 2018 indicates that Africans need visas to travel to 51% of other African countries, 24% can get visa on arrival and 25% do not need visas. Although this is an improvement from 2017 and 2016 when the number of Africans that needed visas to travel within the continent respectively stood at 54% and 55%, more needs to be done in terms of visa openness if continental free trade is to be attained. Oftentimes, the arguments against opening up the borders to other Africans include illegal migration, pressure on limited infrastructure and a possible disruption of cultural cohesion. These arguments should not be a sufficient reason for African countries to continue to restrict fellow Africans from accessing their borders.

Furthermore, countries like Seychelles, Ghana, Rwanda, Uganda, Benin and Togo that have relaxed their visa rules for African nationals have not experienced these upheavals that are deemed to be a natural consequence of a relaxed visa policy. Data from the Africa Visa Openness Report 2018 suggests that there is a real benefit in terms of economic growth for countries that have relaxed their visa policies for African nationals. Three interesting trends are

highlighted in the 2018 Report which may serve as persuasive authority for African countries to relax their visa rules for African nationals. The trends are as follows:

1. The top 20 most visa-open countries had an upward movement in GDP numbers in the area of exports, investments, travel and tourism.
2. 18 of the top 20 most visa-open countries improved their performance in the "distance to frontier" measure of the World Bank Group's *Doing Business 2018*.
3. There was an upward movement of real GDP growth for half of the top 20 most visa-open countries.

Interestingly, 18 of the top 20 most visa-open countries are low-income or lower-middle income economies. Based on these trends, it is clear that low-income and lower-middle income African economies have benefitted from making their borders open to their African counterparts. It is also important to note that one of the reasons why regional integration in Africa remains an important goal is to bridge the gap of fragmented African markets. One way this gap can be bridged is to improve human mobility within the continent. For African countries whose markets are not self-sustaining, permitting easier access to their borders may be beneficial. In conclusion, while the larger African economies might be skeptical in opening up their borders for other African nationals, it is imperative that the smaller African economies grant more access to other Africans in order to boost their economies as they do not have the luxury of numbers.

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