# POLICY, ISSUES & ACTORS:
# Vol 19, No2

**In Pursuit of Regional Citizenship and Identity:**
**The Free Movement of Persons in the**
**Southern African Development Community**

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## 1.    INTRODUCTION

The migration of persons across international boundaries in search of better opportunities or as a result of war, conflict and political instability has risen substantially over the years. The United Nations Population Division estimates that there are currently 175 million people living outside of their country of origin, which is more than twice the number a generation ago.[1] As communications and transport infrastructure become more sophisticated and cheaper, this trend is likely to continue in the foreseeable future.

This movement of persons, from their own countries of nationality or citizenship to other countries where they take up temporary or permanent residence and may even become citizens, significantly challenges the notions of individual, group or national identity associated with nation states. Even in multicultural and diverse societies, such as those found in most southern African countries, nationality and citizenship are overriding features that define those who belong and those who do not belong.

There is an emerging consensus that, if migration is properly managed by both the countries of origin and the destination countries, it can have a positive developmental impact. What is often referred to as the 'nexus between migration and development' is becoming a familiar refrain in the global debates about migration. The essence of this approach is that, rather than viewing and responding to migration as a problem that challenges states economically, politically, socially and culturally, that it should be channelled and managed in a manner that maximises its positive impact, particularly in the economic sphere.[2]

This debate often takes place in conjunction with the globalisation debate: the idea that the countries of the world are becoming more interdependent and that higher levels of cooperation are required if all countries, developed and developing, are to benefit. Implicit in this debate is the recognition that migration is inevitable, but at the same time there is an expressed need for it to be managed, rather than just allowing it to increase as a result of globalisation.[3]

However, the argument that migration should be managed as part of a developmental framework is often seen to be at odds with dominant opinions within nation states about who the beneficiaries of such development ought to be. It is at this intersection of migration, citizenship and national identity and development that the concepts related to the free movement of persons become complex and sometimes controversial.

The importance of migration in the context of development in African states is clearly recognised by the African Union in its 'Strategic Framework for a policy on migration in Africa.', which was drafted in the wake of a series of resolutions and recommendations that were adopted by various meetings between African Heads of State and other political leaders.

[1]    United Nations Population Division. International Migration Report 2002.

[2]    IOM. World Migration 2005: Costs and Benefits of International Migration Geneva, 2005.

[3]    International Organisation for Migration (IOM). World Migration 2005: Costs and Benefits of International Migration.

The African Union (AU) Framework takes as one of its key imperatives, the New Partnership for Africa's Development (NEPAD) strategy that is aimed at promoting the development of the African continent. While acknowledging that NEPAD does not consider migration as a 'sectoral priority', it nevertheless makes the point that NEPAD has the potential to contribute to the solution of many of the root causes of migration by promoting socio-economic and political development.[4]

In framing the need for a comprehensive continental set of migration policies, the AU document states the following:

> ...[W]ell-managed migration has the potential to yield significant benefits to origin and destination states...However, mismanaged or unmanaged migration can have serious consequences for states' and migrants' well-being, including potential destabilising effects on national and regional security, and jeopardising interstate relations. Mismanaged migration can also lead to tensions between host communities and migrants, and give rise to xenophobia, discrimination and other social pathologies.[5]

This AU statement, while emphasising the developmental potential of migration, clearly recognises the complexities of managing migration in relation to notions of 'insiders' and 'outsiders' and citizen's opinions about those who belong and should benefit from development and those who do not belong and should not benefit.

## 2.    THE SOUTHERN AFRICAN CONTEXT

In April 1980, the governments of nine southern African states – Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe (known as the Frontline States) – established the Southern African Development Coordination Conference (SADCC) to:[6]

- reduce their dependence on apartheid South Africa

- implement programmes and projects that would impact nationally and regionally

- use their resources to achieve self-reliance.

Broadly, the formation of SADCC represented an alliance of states that bore the brunt of apartheid South Africa's destabilisation policies, and while its stated objectives were largely economic in nature, it was a de facto political alliance.

In August 1992, following the start of the process of transition in South Africa, the Conference (SADCC) was transformed into the Southern African Development Community (SADC) and it established as its objectives:

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4    African Union (AU). Draft Strategic Framework for a policy on migration in Africa 6.

5    Ibid.

6    Background information about the history and development of the Southern African Development Community (SADC) obtained from http://www.sadc.int

- the achievement of development and economic growth and the alleviation of poverty to enhance the standard and quality of life of the people of southern Africa

- the evolution of common political values, systems and institutions

- the strengthening and consolidating of the historical, social and cultural affinities amongst the people of the region

- the achievement of collective self-reliance with a high degree of harmonisation and rationalisation between member states.

Currently, the SADC consists of fifteen member states: Angola, Botswana, the Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe (though the Seychelles is in the process of withdrawing its SADC membership).

As with the Conference, the objectives of the Community are primarily economic in nature. Fundamental to the achievement of these objectives is the recognition of the need for a greater degree of consistency between (and even the harmonisation of) domestic policies and legislation, as well as the need for regional protocols and mechanisms to govern the joint affairs of member states.

Since its inception, SADC member states have formulated, ratified and signed a number of protocols. Several of these – such as Tourism, Trade, Transport, Education and Training – recognises the desirability of increased economic cooperation and specifically, for the increased movement of capital and goods between member states.  In this context of regional economic development and integration it has been accepted that regional cross-border migration is a key issue, but that it cannot be adequately managed and regulated on the basis of the domestic legislation of individual member states.  Therefore, countries in the region need to cooperate to develop appropriate policies, legislation and mechanisms to govern a regional migration regime.

As the SADC region is moving closer towards free trade – the free movement of capital and goods – and ultimately economic integration, the issue of migration and more broadly, the free movement of persons, has repeatedly come into prominence.[7]

However, the free movement of persons continues to be balanced against the political and economic interests of individual member states. National policies, legislative instruments and institutions and mechanisms designed to manage cross-border migration are inevitably couched in protectionist language and this is unlikely to change unless:

- a greater degree of economic parity can be achieved between member states, or

- a regional migration regime can be conceptualised, designed and implemented that involves all SADC member states and promotes the achievement of greater economic parity.

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[7]  Williams V. Towards the Free Movement of People: The responses of the South African government, business and labour sectors to the 'Draft Protocol on the Free Movement of persons in the South African Development Community' and the 'Draft Protocol on the Facilitation of Movement of Persons in the South African Development Community'.  Report commissioned by HIVOS/Migration Project, 1999.

The achievement of either one or both of the above is a relatively long-term project. The table below shows the extent of the unevenness of the economic situation in SADC member states. If economic parity is a prerequisite for free movement, it is clear that free movement is unlikely to be a feature in southern Africa for some time to come still. However, even without these achievements in place, migration is, has been and will continue to be a reality in southern Africa.

| Table 1: Key indicators for SADC member states | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Country | Pop. (mill.) | Life Expectancy (years) | HIV/Aids Prevalence (%) | Literacy 15+ (%) | GDP per capita ($US) | Unemployment Rate (%) | Pop. below poverty line (%) | Inflation Rate (%) | External Debt ($US bill.) |
| Angola | 11,190 | 36 | 3,9 | 42 | 2,100 | -- | 70 | 43,8 | 10,45 |
| Botswana | 1,640 | 33 | 37,3 | 79,8 | 9,200 | 23,8 | 47 | 7 | 0,531 |
| DRC | 60,085 | 49 | 4,2 | 65,5 | 700 | -- | -- | 14 | 11,6 |
| Lesotho | 1,867 | 36 | 28,9 | 84,8 | 3,200 | 45 | 49 | 5,3 | 0,735 |
| Madagascar | 18,040 | 56 | 1,7 | 68,9 | 800 | -- | 50 | 7,5 | 4,6 |
| Malawi | 12,158 | 36 | 14,2 | 62,7 | 600 | -- | 55 | 12 | 3,129 |
| Mauritius | 1,230 | 72 | 0,1 | 85,6 | 12,800 | 10,8 | 10 | 4,5 | 1,78 |
| Mozambique | 19,406 | 40 | 12,2 | 47,8 | 1,200 | 21 | 70 | 12,8 | 0,966 |
| Namibia | 2,030 | 43 | 21,3 | 84 | 7,300 | 35 | 50 | 4,2 | 1,136 |
| SA | 44,344 | 43 | 21,5 | 86,4 | 11,100 | 26,2 | 50 | 4,5 | 27,01 |
| Swaziland | 1,173 | 35 | 38,8 | 81,6 | 5,100 | 34 | 40 | 5,4 | 0,320 |
| Tanzania | 36,766 | 45 | 8,8 | 78,2 | 700 | -- | 36 | 5,4 | 7,321 |
| Zambia | 11,261 | 39 | 16,5 | 80,6 | 900 | 50 | 86 | 18,3 | 5,353 |
| Zimbabwe | 12,746 | 36 | 24,6 | 90,7 | 1,900 | 70 | 70 | 133 | 4,086 |

Source: CIA World Fact Book [8]

## 3.      MIGRATION IN SADC: HISTORY AND BACKGROUND

Cross-border migration, particularly for employment purposes within the SADC region was prevalent long before the 1990s. In fact, international labour migration within the southern African region for wages dates back at least 150 years. The countries of southern Africa (including Lesotho, Zimbabwe and Mozambique) have been sending and receiving migrants since the mid-nineteenth century when 50 000 – 80 000 labour migrants came to work on the Kimberley diamond mines. The discovery of gold on the Witwatersrand changed the entire pattern of labour migration on the subcontinent. While initially most migrants came independently, the mining industry found this unprofitable and,

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[8]       Available at http://www.cia.gov/cia/publications/factbook/index.html

therefore, set up a contract labour system in collaboration with colonial governments. By 1970, there were over 260 000 male labour migrants on the South African mines.[9]

Other mining centres in Zambia, Zimbabwe, Namibia and Tanzania also became magnets for labour migrants from other countries. The other major employer of migrants in South Africa, Zimbabwe, Namibia, Swaziland, Mauritius and Tanzania were commercial farms and plantations. In the colonial period, migrants also worked in urban centres in construction, domestic service and industry.

The informal movement of people across borders for work also has a long history in southern Africa. There are a number of well documented reasons for this:

- International borders in the region are long and have never been policed well. Before the 1960s, there were no border controls between many SADC states. Many migrants found it easy to move to other countries to find work.

- The regional mining industry was the only sector to establish a formal contract labour system. Other employers hiring migrants did not have access to this labour and often hired migrants outside the law, eg commercial agriculture and domestic service.

- Colonial regulations and the formal contract system for labour migrants were gender-biased. Female migrants could not migrate legally across borders for work. They therefore had to migrate illegally, which many did.

- Employers often preferred to hire non-locals because they were cheaper and more exploitable. Employers were rarely punished for this, so there were no incentives not to break the law. Instead enforcement has focused on identifying and deporting migrants.

By definition, informal labour migration is extremely difficult to measure; no records were kept by employers or governments. There are thus no reliable numbers other than census data, which does not distinguish legal from undocumented migrants. To accurately assess the exact dimensions of the current migration within SADC is difficult for the following reasons:

- National data collection systems do not collect systematic time-series data on foreign employment in the country.

- Census data can potentially yield valuable information but census must be oriented to migration related questions.

- Clandestine migration is difficult to count since migrants and employers have no interest in making their presence known.

- Notwithstanding the lack of reliable data, all SADC member states have immigration laws and policies that are based on three fundamental principles: [10]

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9    For a more detailed discussion on migration history in Southern Africa, see Crush J, Williams V. Labour Migration in Southern Africa Unpublished Research Report commissioned by the International Labour Organisation (ILO), November 2001.

- the sovereignty of the nation-state

- the integrity of national boundaries

- the right to determine who may enter its national territory and also to impose any conditions and obligations upon such persons.

The migration laws and policies of most SADC member states date back to the colonial era and are largely 'protectionist' and discourage the movement of persons across borders. This places immigration laws and policies at odds with the historical reality of cross-border migration and in fact encourages undocumented (illegal) movements. By driving migration underground, it becomes more difficult to achieve what migration laws and policies intend to achieve: the regulation and management of cross-border migration to ensure that it does not disproportionately disadvantage citizens and have a negative impact on either the source or destination countries.

In terms of current institutional arrangements in most SADC member states, cross-border migration inevitably creates a 'dilemma of jurisdiction'. At its most basic, it becomes a tug-of-war between the Ministry / Department of Home Affairs / Immigration and the Ministry / Department of Labour. In its extended form, it also involves Foreign Affairs and Social and Welfare Services. The question is: who decides on the number of people who should be allowed into a country and the purpose and conditions under which they will be allowed? Once they've been granted access, what social and welfare services are they entitled to? How does the movement of citizens from one country to another impact on the relationship between the governments of the host and source countries?

The 'dilemma of jurisdiction' at national level is compounded by the fact that there are no formal institutional arrangements at a multilateral regional level that pertain to the management and regulation of migration. If anything, such institutional arrangements are conspicuously absent. The only regional institutional arrangement that has the potential to deal with migration in the region is the SADC Employment and Labour Sector (ELS), now incorporated into the Directorate of Social and Human Development. However, the ELS has paid scant attention to questions of migration and where it has, it has been rather ad hoc and inconsistent.

In terms of data collection and statistics, the role of the SADC Statistics Committee that has the brief "…to seek to achieve the comparability, standardisation and harmonisation of data processing, and statistical systems and policies…" is potentially crucial. Equally important is the SADC project to develop common methodologies for national censuses that, if targeted appropriately, can generate significant information about cross-border population movements.

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[10]   Crush, Williams. Labour Migration in Southern Africa.

## 4.      TOWARDS THE FREE MOVEMENT OF PERSONS

As early as July 1993, an SADC workshop on the free movement of people was held in Harare and following the SADC Council of Ministers meeting in Swaziland in July of 1994, a team of consultants was appointed to prepare an SADC protocol on free movement.[11]

In March 1996, the 'Draft Protocol on the Free Movement of Persons in the Southern African Development Community' (hereafter the free movement protocol) was completed and subsequently submitted to SADC member states for their comment. The objective of this free movement protocol was to phase in, over a period of ten years, the free movement of citizens of the SADC member states, between and within countries in the region, and to regulate the movement of citizens of non-SADC countries into and within the region.

After much back and forth, the free movement protocol was dropped, mainly on the insistence of South Africa, Botswana and Namibia. The argument was that the region was not ready for the free movement of people yet, given the economic disparities between the various member states. Some argued that the free movement protocol amounted to an open border policy which did not take into account the potentially negative consequences of such a policy.

In response, and as an alternative to the free movement protocol, the 'Draft Protocol on the Facilitation of Movement of Persons in SADC' (hereafter the facilitation protocol) emerged, sponsored by the South African government. This facilitation protocol was more readily accepted and approved in principle at the SADC Summit of August 1997. It was agreed at the summit that every member state would have the opportunity to review and make amendments to the facilitation protocol and submit amendments to it at the summit that was scheduled for September 1998. However, the summit of September 1998 effectively put all discussions related to the facilitation protocol on hold indefinitely on the basis that the provisions of the facilitation protocol, and particularly those related to 'establishment' went beyond the mandate that was given to its drafters.

Discussion on the facilitation protocol was revived in 2003 when questions related to the movement of persons repeatedly surfaced during the deliberations of the SADC Organ on Politics, Defence and Security Cooperation. The organ set in motion a plan to work towards the adoption of the facilitation protocol that consisted of national consultations in each member state, a joint workshop at which member states were to submit their amendments and proposals, after which a redrafted facilitation protocol would be submitted to the SADC Summit for adoption and subsequent ratification by member states. However, this plan was not implemented as outlined, partly because of the unevenness of the national consultative processes in member states.

In July 2005, the Ministerial Committee of the Organ met in South Africa where they considered and approved the 'Draft Protocol on the Facilitation of Movement of Persons'. The draft protocol was subsequently tabled at the SADC Summit that was held in August 2005 where it was approved and signed by six member states. In their official communiqués, both the organ and the summit refer to the protocol as a means to give effect to the SADC Treaty that calls for the promotion of sustainable

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[11]    For a more detailed discussion, see Williams.

economic growth and development and the elimination of the obstacles to the free movement of capital and labour, goods and services, and of people generally among member states. [12]

The overall objective of the facilitation protocol, as described in the communiqué issued by the Organ, is to facilitate the movement of persons, but its specific objective is to facilitate entry into Member States without the need for a visa for a maximum period of ninety days. The official communiqué issued at the end of the summit also makes reference to the provisions pertaining to 'residence' and 'establishment' as described below.

In terms of its current status, therefore, the facilitation protocol has been formally adopted at the Summit of the Heads of States and it has been signed by six member states. However, for the protocol to come into effect, at least nine member states must have both signed and ratified it; a process which may yet take some time. Once the protocol has been ratified by nine member states (and, therefore comes into effect), time-frames for its implementation will be developed. It appears, however, that steps are already being taken to give effect to some of the provisions of the facilitation protocol. For example, a proposed meeting to be held in Namibia will consider the harmonisation of immigration policies and laws of SADC member states.

Ultimately, the success or otherwise of the Facilitation of Movement Protocol will be determined by a whole range of factors, as discussed below. But first, it is useful to look at where and how the facilitation protocol is located within the overall framework of SADC and what it specifically provides for in terms of its content.[13]

## 5.    CONTEXT AND OBJECTIVES OF THE PROTOCOL

Article 10.3 of the 'Treaty Establishing SADC' authorises the summit to adopt legal instruments for the implementation of the provisions of the treaty. The facilitation protocol is one such legal instrument, which, in its preamble, expresses commitment to various provisions of the treaty, including the following:

- the duty to promote the interdependence and integration of our national economies for the harmonious, balanced and equitable development of the region

- the necessity to adopt a flexible approach in order to accommodate disparities in the levels of economic development among member states

- the need to redress imbalances in large scale population movement within SADC

- to support, assist and promote the efforts of the Organisation of African Unity (OAU) which is encouraging free movement of persons…[within regions]…as a stepping stone towards free movement of persons in an eventual African Economic Community.

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[12]    SADC Communiqué available at www.sadc.int

[13]    All references to the SADC Protocol are based on the version dated August 2005.

The protocol then refers specifically to Article 5.2(d) of the SADC Treaty, which "… requires SADC to develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the region generally, among member states…"

## 6.      OBJECTIVES OF THE PROTOCOL

The ultimate objective of the protocol is "... to develop policies aimed at the progressive elimination of obstacles to the movement of persons of the Region generally into and within the territories of State Parties" and it aims to do this by facilitating:

- entry, for a lawful purpose and without a visa, into the territory of another State Party for a maximum period of ninety (90) days per year for bona fide visit and in accordance with the laws of the State Party concerned

- permanent and temporary residence in the territory of another State Party

- establishment of individuals in the territory of another State Party, enabling them to work there.

In terms of the timeframe for implementation, the protocol specifies that an Implementation Framework will be agreed upon within six months from the date on which at least nine member states have signed.

## 7.      'MOVEMENT' AS ENVISAGED BY THE PROTOCOL

The protocol defines three types of 'movement' by people as follows:

### 7.1    Visa-free entry

In terms of this, a citizen of a State Party may enter the territory of another State Party without the requirement of a visa. However, the person must enter through an official border post, possess valid travel documents and produce evidence of sufficient means of support for the duration of the visit. Furthermore, it is specified that this is limited to 90 days per year, though the visitor may apply for an extension of this period.

With regard to what the person may do during these three months, the protocol is completely silent. There is no specification as to whether the person may take up short-term employment, engage in trade or business of any sort, or attend an educational institution. Given the absence of such provisions related to visa-free entry, it can be assumed that such visits are intended to be for reasons not provided for by the other categories of movement as discussed below.

The protocol also provides for an exemption in terms of which any member state may apply in writing and for good reason to reimpose visa requirements, provided that such visas will be issued at a port of entry at no cost.

## 7.2    Residence

The second type of movement envisaged by the protocol is referred to as residence and is defined as: "… permission or authority, to live in the territory of a State Party in accordance with the legislative and administrative provisions of that State Party."  The protocol also encourages member states that have signed the protocol to facilitate the issuing of residence permits so as not to cause undue delays.

## 7.3    Establishment

The third category of movement, known as 'establishment' is defined as "permission or authority granted by a State Party in terms of its national laws, to a citizen of another State Party, for …"

- economic and professional activity either as an employee or a self-employed person

- establishment and management of a profession, trade, business or calling.

It is not entirely clear from a reading of the text of the protocol, what the difference is between 'residence' and 'establishment', though the notion of establishment has within it, the possibility that persons who have relocated permanently will have the option of applying for and being granted citizenship in the country of destination.

## 8.    GRANTING AND PROTECTION OF RIGHTS

Articles 20 – 25 of the protocol state that individuals have the right not to be removed from the territory of a member state unless there are legitimate and valid reasons for doing so. However, a very clear set of principles and procedural guidelines are specified in the event of such removal. Furthermore, the protocol clearly states that no one may be subjected to collective or group removals. In other words, no state has the right to remove an entire family or all the citizens of a particular country unless each case has been considered and determined on its own merits.

## 9.    ASYLUM-SEEKERS AND REFUGEES

Article 28 is a reaffirmation of the obligations of member-states towards asylum-seekers and refugees, but stipulates that the management of refugees shall be regulated by a specific memorandum of understanding (MOU) between State Parties.

## 10.    INSTITUTIONAL STRUCTURE

Article 29 specifies that the institutions responsible for the implementation of the protocol shall be the Committee of Ministers responsible for Public Security and any other committee established by the Ministerial Committee of the Organ.

## 11.    COMMENTS ON THE ADOPTED VERSION OF THE PROTOCOL

The provisions of the protocol are limited to the facilitation of the movement of persons within SADC. However, it is underpinned by the vision of an eventual African Economic Community within which the creation of regional blocs and free movement within regions are but stepping-stones to free movement across the continent.

The adopted version of the protocol, however, differs significantly from the previous versions submitted to the SADC Summit, in a number of different ways.[14] Perhaps the most significant deviation from earlier versions is the complete absence of any provisions relating to actual free movement as previously envisaged. The provisions relating to visa-free entry, residence and establishment are, with some modifications, very similar to previous drafts. However, it was also envisaged that there would be a fourth category of movement, which related to the abolishment of border controls between SADC member states.  In the adopted version of the protocol, there are no such provisions and effectively, the protocol simply formalises at a multilateral regional level, what is already a reality between many of the SADC member states in terms of bilateral arrangements.

The second significant difference lies in the specification of the institutions responsible for the implementation of the protocol. Whereas previously, it was envisaged that a Regional Standing Committee on Free Movement would be created, this draft of the protocol firmly establishes its ambit within the domain of the security establishment in the region. What the implications of this are remain uncertain, but it does reflect the fact that the movement of persons continues to be viewed (even if only in part) as a security threat.

It is clear that the movement of people, free or otherwise, is inextricably linked to the movement of capital, goods and services. In this context, the provisions of the protocol cannot be seen in isolation from existing or future trade, customs, export or any other bilateral, multilateral or regional agreements. Of particular importance are the Bilateral Labour Agreements between South Africa and various other countries in the region, the multiplicity of bilateral agreements that provide for visa-free entry, and the proposed univisa that is contained in the Tourism Protocol and which at a recent meeting of Ministers of Tourism, it was agreed that every effort should be made to have the univisa in operation by the year 2008.[15]

## 12.    FREE MOVEMENT AND REGIONAL CITIZENSHIP AND IDENTITY

In the Facilitation of Movement Protocol as well as in the SADC Treaty, emphasis is placed on the desire to create a unified and integrated community of states. The proposal to eliminate borders between SADC member states that were contained in the previous version of the protocol was a fundamental step towards the realisation of a single community. One of the ways in which the idea of a single community has been expressed has been the notion of SADC citizenship. For example, at a seminar on regional migration, an employee of the SADC Secretariat proudly spoke of the fact that he

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[14]    Compare for example the August 2005 version of the Protocol with the version dated March 1998 that was presented   to the SADC Summit in September 1998.

[15]    'Single regional visa for 2010,' Business Day 14 June 2005.

had a SADC passport and a SADC driver's licence and referred to himself as a SADC citizen.[16] However, this lofty ideal of achieving a regional identity, which will ultimately take the form of SADC citizenship appears to be confined to those politicians and bureaucrats who, as a result of the nature of their positions, constantly and consistently interact at a regional level.

In 2001 and 2002, the Southern African Migration Project (SAMP) conducted its National Immigration Policy Surveys (NIPS) in five SADC member states. The objectives of the surveys were to assess citizen attitudes towards migration and migration policy and to compare these between various countries in the region. The surveys were conducted in Botswana, Mozambique, Namibia, Swaziland and Zimbabwe. Data from a similar survey that was conducted in South Africa in 1999 was also compared with the results obtained in the above countries.[17]

The SAMP surveys found that the citizens of the countries in which the surveys were conducted consistently tended to overestimate and exaggerate the numbers of non-citizens in their countries. They tended to view the migration of people within the region as a problem rather than an opportunity and that they have a propensity to scapegoat non-citizens. The intensity of these feelings varies significantly from country to country with the harshest sentiments expressed by the citizens of South Africa, Namibia and, to a lesser extent, Botswana. The SAMP report states that the citizens of Swaziland, Mozambique and Zimbabwe are "considerably more relaxed about the presence of non-citizens in their countries".

The results of the SAMP survey also speak indirectly to the question of regional citizenship and identity as shown by the following quote from the report:

> *One of the more interesting results is the apparent absence of any sense of solidarity with other countries in the SADC. Given the longevity of the SADC as a formal institution, this is a significant finding. The absence of any real sense of 'regional consciousness' (of participation in a regional grouping whose interests are greater than the sum of its parts) has very direct implications for migration issues. Citizens of these SADC countries make very little distinction between migrants from other SADC countries and those from elsewhere in Africa and even Europe and North America. Where attitudes are negative, they are uniformly negative; where positive, uniformly positive. An urgent challenge confronting the SADC and migration-related initiatives is therefore to develop strategies to build a new regional consciousness amongst citizens and policy-makers.[18]*

Most citizens would prefer national governments to 'get tough' with migrants and refugees and this is perhaps not unexpected. As is stated in the SAMP report:

> *When migration is viewed as a "threat" (as it clearly is amongst significant portions of the population and amongst virtually everyone in some countries) it is not unusual for citizens to prefer harsh policy measures. Rather shocking is the degree of support for border electrification. But citizens also want to see armies at the borders, tough internal*

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[16]   SAMP Conference on Regional Migration, July 2000.

[17]   Crush J, Pendleton W. Regionalizing Xenophobia: Citizen Attitudes to Immigration and Refugee Policy in Southern Africa SAMP, 2004.

[18]   Ibid.

*enforcement and curtailment of basic rights. There is clearly a massive job of education confronting government if policy-makers are to turn around the obsession with control and exclusion and encourage a countervailing sense of the potential positive aspects of migration and immigration.*[19]

The tentative and tortuous process by which the Protocol on the Facilitation of Movement came into being and was eventually adopted has been described as being the result of a 'lack of political will' amongst the politicians of some countries.[20] This apparent reluctance to promote free movement and to do away with border controls between SADC member states may be a reflection of the desires and sentiments of citizens, but on the other hand, also showcases the lack of political leadership on, not just the issue of migration, but also in the promotion of a sense of regional identity and belonging.

## 13.    CONCLUDING COMMENTS

The SADC region has gone a long way towards the establishment of a Regional Economic Community and the achievement of the level of cooperation and integration as envisaged in the treaty that established the SADC. It should be noted, however, that substantively, the focus has been on economic cooperation and integration and, therefore, many of the legal instruments, protocols and memoranda of understanding that have been approved and ratified are related to developing the region as a regional economic bloc, with regional free trade being the cornerstone of these developments.

The recent restructuring of the SADC Secretariat into Directorates each of which has a specific programmatic focus, the development of a Regional Indicative Strategic Development Plan (RISDP) and several stand-alone or cross-cutting programmes at a regional level all contribute to a sense of joint purpose between governments in the region and bode well for the eventual achievement of the level of integration as envisaged in the founding treaty.[21]

The fact that a discussion about the need for a regional protocol on the movement of persons in SADC arose as early as 1993 was a clear recognition that migration is both an historical fact and a future inevitability. In the SADC Treaty, the free movement of persons is positively expressed as one of the desired outcomes of, and one of the factors that will contribute to integration and cooperation, not only at a regional (SADC) level, but continentally as well. However, processes towards the achievement of this goal (of free movement) has until recently been characterised by the reluctance of the countries with better developed economies (South Africa, Botswana and Namibia) to sign on to a regional protocol that creates a framework for achieving this objective (though it is reported that South Africa is one of the six countries that signed the protocol at the recent SADC Summit). It is perhaps not coincidental that the results of the SAMP research show that it is also in these three countries that levels of anti-foreigner sentiment are at its highest.

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[19]    Ibid.

[20]    Comment made by participants at a Migration Dialogue for Southern Africa (MIDSA) workshop held in Maseru, Lesotho in December 2003.

[21]    Documents available at http://www.sadc.int

The signing of a protocol on the movement of persons nearly ten years after the first draft appeared is in and of itself a significant achievement, even if the existing provisions do not represent any radical departure from already existing national policies and legislation or indeed, negotiated bilateral arrangements. The signing of the protocol by six countries sends an important political signal that governments (or at least some of them) are beginning to recognise that regional economic cooperation and integration is not limited to the free movement of goods, services and capital, but must necessarily include the free movement of persons.

Given the levels of hostility towards foreigners and the views of citizens that suggest that they are in favour of highly restrictive migration policies, the political act of signing a protocol on the movement of persons is not sufficient to either create or contribute to the development of a sense of regional identity and citizenship.

This in turn raises a much broader question with regard to the nature and extent of integration and the eventual development of a community in SADC, which does appear to imply the need for a better sense of identification and belonging and identification that extends beyond nationality and national borders. What is becoming more and more apparent is the fact that there is a substantial gap between the views and initiatives of the political elite on the one hand and their citizens on the other. While many political leaders proudly proclaim and foster a sense of belonging and identity that transcends national boundaries, this is not the case with citizens for whom national borders remain paramount and the distinction between 'insiders' and 'outsiders' is more often than not based on nationality and citizenship. This is of course based on the false assumption that developing a regional identity is in conflict with maintaining a national identity, which is not necessarily the case. It should be possible to encourage and promote citizens to develop a stronger sense of regional identity without having to give up or forsake their national identities, as many of their political leaders have done.

The original draft of the SADC Protocol on the Free Movement of Persons implicitly envisaged the dismantling of national boundaries and the inculcation of a sense of regional identity and belonging, not only amongst the political elite, but also amongst ordinary citizens. But there appears to be a 'chicken and egg' situation developing: Will greater freedom of movement between SADC member states contribute to a greater sense of regional identity and belonging and gradually regional citizenship, or will it lead to heightened tensions and more widespread anti-foreigner sentiments? On the other hand, is a greater sense of regional identity and belonging, and reduced hostility towards foreigners a prerequisite for the free movement of persons in the SADC region?

In its survey on xenophobia in South Africa, SAMP attempted to establish whether negative attitudes towards foreigners were based on personal experiences and interaction.[22] The results indicate that there is an inverse connection between levels of contact and interaction and the extent of negativity and hostility towards foreigners. In other words, the less contact they have with foreigners, the more likely citizens are to have negative attitudes. To the extent that this observation is correct, it has important implications for thinking about the movement of persons since it would suggest that if there is greater freedom of movement of persons in the region (and, therefore, more contact and interaction), this could have the effect of reducing levels of xenophobia. However, this

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[22]    Mattes, R et al Still waiting for the barbarians, Idasa/SAMP, Cape Town, 1999

requires that attempts at achieving free movement in SADC must be driven with a high degree of political leadership that attempts to negate citizen opinion about the potential (negative) outcome of free movement.

In the Preamble to the Treaty that establishes SADC, a commitment is made to involve the people of the region centrally in all the efforts to establish an integrated community.[23] In all the initiatives undertaken by the SADC, this aspect to its work has been conspicuously absent. Perhaps the more strategic question to ask is: What efforts can and should be made and how can 'the people of the region' be more centrally involved in the shaping of the SADC as an integrated regional community? It is only when citizens are encouraged to think beyond their national boundaries that a true sense of regional identity and citizenship will be developed; but for now this has not been part of the overall agenda and thrust of the work undertaken by SADC through its various structures.

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[23]     SADC Treaty, available at http://www.sadc.int