

INTEGRATION AND THE POTENCY OF ECOWAS PROTOCOLS IN THE DRIFT TOWARDS STATEHOOD

Sam Olatunji Ajiye

LL.B., B.L., LL.M., Institute for Peace and Conflict Resolution, Abuja, Nigeria

tunjis@outlook.com

Abstract

The state of affairs in West Africa can be described as a mystery, mind-boggling and not fulfilling of its potentials. The Economic Community of West African States (ECOWAS) is the principal regional economic community in West Africa wherein the continental integration process, as advocated by the African Union, should take shape. The objectives of ECOWAS are to promote cooperation and integration in the economic, social and cultural domains. It is a process which should lead to an economic and monetary union, through a full integration of the national economies of its Member States, enhanced living standards and greater economic stability. The research examines the effectiveness of ECOWAS Protocols in the drive towards statehood. It finds that some of ECOWAS policies towards statehood and regional integration have not been effective due to the peculiarities of inadequate funding by the members. The study recommends that there should be viable and sustainable enforcement mechanisms against member signatories to the ECOWAS Protocols to fulfill their financial obligations.

Keywords: ECOWAS, Protocol, Integration, Statehood, Governance

INTRODUCTION

The Economic Community of West African States (ECOWAS) was conceived as a sub-regional integration scheme to promote economic development, modernization and growth among other things in the sub-region. Over the years, it has expanded its objectives, roles, authority and focus in order to accommodate new exigencies, changes and development. These include the unique manner ECOWAS was able to manage and promote a new security consciousness in

conflicts prevention and management globally acclaimed as depicted by the ECOWAS/ECOMOG initiatives and performance (Adetula, 2009:25).

The ECOWAS mission as provided in the Treaty of ECOWAS, is to promote economic integration in all fields of economic activities particularly industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters. To achieve this mission, ECOWAS has been instrumental to the establishment of a number of agencies that promoted integration in different areas. For instance, in the area of human resource development, there are two West African organizations in the health sector: the West African Health Community (WAHC) and the Coordination and Cooperation Organization for the Control for the Major Endemic Disease (OCCGE), which were later merged into West African Health Organization. ECOWAS also encouraged the formation of a number of associations to involve the citizens of West Africa in the integration process. Among these are the West African Youth Union, the West African Women's Association, and the West African Workers Union. Also, other regional associations that boosted integration in the West African region includes; the Federation of West African Chambers of Commerce, the Federation of West African Manufacturers Associations, the West African Banks' Association, and the Union of West African Road Transporters.

Other efforts of integrating ECOWAS states also include the establishments of the ECOWAS Military Observing Group (ECOMOG). The ECOWAS partners launched the initiative to consolidate peace, stability and security (Addis Ababa, 2002:45). Though ECOWAS was originally designed to promote economic cooperation and development (Aning, 2000:335), it has gone beyond this in a number of areas. For instance, ECOWAS was involved in managing crisis in neighboring Liberia and Sierra Leone. The UN snubbed their noses at this effort, but ECOWAS saw this event as presenting a concrete threat to its Member States and had to do something (Ibid.). ECOWAS was also involved in the conflict in Cote d'Ivoire. Organizations such as the EU stressed its full support for the mediating role of ECOWAS and the need to resume the national reconciliation process in Ivory Coast (EU, 2016: 6).

Since the birth of the ECOWAS in 1975, the sub-regional organization has continued to be confronted with varying challenges, especially as regards the integration of its Member States. Nigeria has consistently accorded top priority status and support to the organization and its main objectives. This commitment to ECOWAS on Nigeria's part arises from the recognition of the strategic as well as economic importance of the organization to the pursuit of Nigeria's national interest in Africa and the world. However, in spite of Nigeria's massive support to ECOWAS since its founding, the march towards West African economic cooperation and integration has been painfully slow (Obiozor, 1996: 23).

The effectiveness or otherwise of these mechanisms by ECOWAS to encourage cooperation and integration in the sub-region is however a bone of contention. The organization has been said to have achieved a lot in the area of peace building through mechanisms like the ECOMOG, while a little has been achieved in terms of economic cooperation or monetary integration. The emergence of economic blocs in Europe, North America, Asia, and the Pacific Rim, has created the urgency with which Africa, particularly West Africa, needs to review regional cooperation and integration efforts. Greater regional cooperation and integration efforts are perhaps one of the few flickers of hope left if Africa intends to contain its further marginalization in a world increasingly dominated by competing blocs (Ibid.). The extent to which the national constitutional frameworks within ECOWAS have affected the growth and development of cooperation and integration has been under contention. This has brought up the argument of whether the constitutional frameworks are suitable for the Community objectives.

CONCEPTUAL FRAMEWORKS

This is aimed at affording a better understanding of this study. Some of these key terms include; regional integration, statehood and governance. This section reviews the various definitions and clarifications giving by authors and operational definitions by regional organizations for these key terms.

Regional Integration

Regional integration today has become the leading development policy all over the world. Numerous integration organizations have been established and old ones revived since the end of the Cold War. In addition to the global economic regime based on the GATT and IMF systems, which has sustained the world economy since World War II, regionalism, through which neighbouring countries seek to strengthen their economies by entering into some form of “regional integration” has become a major trend. This leads us to question of what the term regional integration is and how it can be defined. The term is used sometimes in a confusing manner, because in everyday language as well as in theorizing related to integration the term has been used to describe both a process as well as an end state of the process. According to Haas (1970:607-646):

Even fifteen years of work have not quite sufficed to create a consensus on a clear delimitation. Amitai Etzioni treats 'integration' as the terminal condition, not as the process of getting there. Philip Jacob and Henry Teune regard integration both as a process and as a terminal condition, a condition achieved when an unspecified threshold is passed by an unspecified mix of ten process variables. Karl Deutsch speaks of integration as a process leading to the creation of

security communities; I consider it a process for the creation of political communities defined in institutional and attitudinal terms, a condition also described by Jacoband Teune. Federalists, finally, see the end of the integration process in the growth of a federal union among the constituent nations.

The definition of this phenomenon has both political and economic dimensions. Early theorizing related to the European integration process emphasized the nature of the phenomenon. Haas defined integration as follows(Haas, 1958:16):

the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new center, whose institutions possess or demand jurisdiction over preexisting national states. The end result of a process of political integration isa new political community, superimposed over the pre-existing ones.

The Concept of Statehood

The issue of what constitutes a state has been extensively examined and discussed, but often in absolutist terms confined to drawing up lists of criteria which must be met before an entity may be deemed a state. The topic of statehood under international law has long been a favorite with jurists. Pasquale Fiore emphasized political power as well, along with law (Fiore, 2008: 113):

The State is an association of a considerable number of men living within a definite territory, constituted in fact as a political society and subject to the supreme authority of a sovereign, who has the power, ability and means to maintain the political organization of the association, with the assistance of the law, and to regulate and protect the rights of the members, to conduct relations with other states and to assume responsibility for its acts.

Baty (1930:44), in her Canon of International Law, called a state an organized people, that is, an assemblage of human beings among whom the will of an ascertainable number habitually prevails. This seems to continue the emphasis on sovereignty; the existence of an organized political power over a territory and people. Baty went further in defining the internal character of a state. He said a state is a complex function whose elements are the people, their culture and traditions, the land they live in, and their organizations as a coherent whole. Baty proposed as a criterion of statehood a characteristic akin to independence, though perhaps better described as self-containment: the existence among the people, or the bulk of the people, of a certain mutual reliance, not participated in by the outside world.

However, the Montevideo Convention on Right and Duty of States (1933: Art. 1) defined four elements as requirement in order to claim statehood thus: (1) A permanent population; (2) a fixed territory; (3) a government; and (4) the capacity to enter into relations with other nations.

Although this Convention itself binds upon only States Parties, it is commonly accepted as reflecting, in general terms, the requirements of statehood at customary international law (Crowford, 2007: 40). Oppenheim defines a population or "people" as "an aggregate of individuals who live together as a community, though they may belong to different races or creeds or cultures, or be of different colour (Oppenheim, 1992:121). Under this construction, for the purpose of statehood, an entity's population must first live together as one people, and secondly must form a national community. Also, under another construction, the permanent population requirement suggests that "there must be people identifying themselves with the territory no matter how small or large the population might be (Wallace-Bruce, 1985: 575-602).

Concept of Governance

The concept of governance has developed considerably since it emerged in discussions of development issues around the late 1980s. The first classic political science essays on the subject talked about the concept of "governability", which made the rule of law the core of development. With the end of the Cold War, "governability" gave way to the concept of governance, defined as redesigning or re-inventing public administration, in the broad sense of the term, to meet the new challenges of development in the era of globalization. Governance deals with issues relating to the mechanisms needed to negotiate various interests in society. It is increasingly seen as a concept that encompasses a series of mechanisms and processes designed to maintain the system, to empower the population and to ensure that society owns the process.

The Canadian International Development Agency (CIDA: 1997) defined good governance as the manner in which power is exercised by governments in the management of a country's social and economic resources. "Good" governance is the exercise of power by various levels of government that is effective, honest, equitable, transparent and accountable. There are several authors that have tried to define governance, and have viewed governance from different perspective. This section will review governance particularly as adopted by key international organizations.

World Bank (1994) defined governance as the manner in which power is exercised, in the management of a country's social and economic resources. The bank makes a clear distinction between the political and economic dimensions of governance. Its call for good governance is to encourage governments to create the legal and institutional framework for transparency, predictability and competence in the conduct of public affairs and the management of economic development. Thus, it identifies the following components of governance: public-sector management, accountability, legal framework, transparency and

information. The DAC on the other hand uses a definition of governance that echoes the World Bank's definition, but also considers the political, social and economic aspects of the concept. Thus, they define governance as the use of political authority and exercise of control in society in relation to the management of its resources for social and economic development (DAC: 1993).

HISTORICAL BACKGROUND OF COOPERATION AND INTEGRATION IN AFRICA

Africa has a fairly long history of regional integration. Many African leaders called for the integration of Africa soon after attaining independence. But it was only in the 1970s and 1980s that concrete steps were taken to establish economic integration institutions in Africa. Regional integration was motivated by partly the political vision of African unity. From the time of independence, there have been failed attempts to industrialize efficiently using import-substitution, which gave rise to the notion of regional integration as a means to facilitate structural transformation in Africa. Consequently, African countries have incorporated regional integration as an important component of their development strategies primarily driven by the economic rational of overcoming the constraint of small and fractioned economies working in isolation.

Thus far, a number of colonial cross-border arrangements have continued to exist in post-independence and serve the regional integration agenda. Examples are related to the previous African Financial Community (CFA) zone, comprising the West African CFA franc and the Central African CFA franc. The West African CFA franc was ultimately integrated to the West African Economic and Monetary Union (WAEMU) in the territory of ECOWAS, while the Central African CFA franc is set to join the envisioned Economic and Monetary Union of Central Africa (CEMAC) in the ECCAS region. Around the same time, the Heads of State and Government of 30 of the 32 independent African nations gathered to establish the Organization of African Unity (OAU) at the Conference of Independent African States in May 1963 (UNECA: 2017). Beside the liberalization efforts of colonization and apartheid, the core objective of OAU (now African Union) were to: promote unity and solidarity among African States; organize and strengthen cooperation for development on the continent; protect the sovereignty and territorial integrity of its Member States; and encourage international cooperation as outlined by the United Nations (AU:2017). At the fourth Extraordinary Summit of OAU held in Sirté, Libya in 1999, the Heads of State and Government called for the establishment of an African Union (the Sirté Declaration) in conformity with the ultimate objectives of the OAU Charter and the provisions of the Abuja Treaty. This however gave rise to the Constitutive Act of the African Union, in Lome, Togo in 2000.

The organizational framework of ECOWAS was set up primarily as a regulatory body and guideline of prescriptions for its activities within the West African sub-region. The organizational goal was mainly to achieve economic goals of coordination and harmonization of national policies, which necessitate the creation of organizational institutions around these multi-dimensional goals in order to actualize significant changes in the region. The present institutions of ECOWAS comprise the following (ECOWAS, 2015):

- a) the Authority of Heads of State and Government;
- b) the Council of Ministers;
- c) the Community Parliament;
- d) the Economic and Social Council;
- e) the Community Court of Justice;
- f) the Executive Secretariat (ECOWAS Commission since 2006);
- g) the Fund for Co-operation, Compensation and Development;
- h) Specialized Technical Commissions; and
- i) Any other institutions that may be established by the Authority.

METHODOLOGY

The approach adopted for this study is basically a doctrinal approach. The researcher relies principally on secondary sources of data. The research design for this study is extensive consultation of secondary material from the internet, published works of Non-governmental organizations, public and private libraries. The study consults relevant books and article to source for data to achieve the objectives of this study.

REVIEW OUTCOME

Achievements of ECOWAS Monetary Integration Initiatives

One of the major factors that are considered in embarking on monetary regionalism in the world is to ensure financial stability in the participating Member States. Monetary integration of the West African economy has been one of the major goals of ECOWAS since its inception in 1975. Though the original Treaty did provide some measures that should be adopted to achieve this aim, the 1993-Revised Treaty in Articles 51 to 55 really give elaborate and concrete strategies to be implemented in order to attain a monetary integration in West Africa.

In order to achieve the ECOWAS objectives of economic growth and development there is need to promote cooperation, cross-border payment, trade and investment through the use of a common currency. The Community therefore set programmes to achieve cooperation such as

building a clearing-house to facilitate payment thereby in the long run creating a monetary union with a coordinated exchange rate system. This will permit intra-ECOWAS convertibility and finally facilitate a single ECOWAS currency. The lack of a common currency for the ECOWAS region has for instance compelled intra-regional traders to convert their national currencies to internationally convertible ones before changing them to the local currency of the regional partner. This increases their cost of transactions as they are for example made to pay commission twice, as they exchange currency.

The timeframe for the establishment of the single currency was extended from 2000 to 2004. In this regard, member-countries were urged to adopt a fast-track approach to monetary integration by accelerating the process of attaining macroeconomic convergence. The fast-track approach involves the creation of a second monetary zone called the West African Monetary Zone (WAMZ). The WAMZ comprises English speaking ECOWAS countries namely; The Gambia, Ghana, Liberia, Nigeria, Sierra Leone and Guinea (French speaking). The Francophone countries have already a monetary union, known as UEMOA and have adopted a common currency called the CFA Franc. The objective of this approach was to merge the two zones (WAMZ and UEMOA) to create an ECOWAS single monetary zone (Fwangkwal, 2014:77).

In furtherance of the objective of the WAMZ, the West African Monetary Institute (WAMI) was established in January 2001 to coordinate and supervise the implementation of the WAMZ program. The single currency in the WAMZ was initially scheduled to commence in January 2003, after member countries must have satisfied the convergence criteria. However, the launch of the monetary union was postponed to July 1, 2005, due to member-states inability to attain macroeconomic and structural convergence.

Following the postponement, member-countries made considerable efforts to improve upon their macroeconomic performance. However, in spite of their efforts, the level of macroeconomic convergence was not sufficient for the launch of the single currency in the WAMZ. Therefore, the date was postponed to December 1, 2009, and an expanded work program was adopted. Furthermore, member countries strived towards achieving macroeconomic convergence but the impact of the global financial crisis, once again forced another postponement to January 1, 2015, and the Abuja Action Plan (AAP) 2009 was adopted, to enable macroeconomic convergence and realization of set targets. The inability of the WAMZ member countries to meet the set targets, thus, prompting several postponements, led the ECOWAS Heads of State to decide to adopt the Modified Gradualized Approach to monetary integration by 2020(Ibid.).

This situation is mostly due to the various exchange rate regimes being employed within the sub-region. Usually when the transaction that has been conducted through WAMA is high, it means that a high foreign exchange restriction regime was in place. The current liberalized system of foreign exchange regime that is operating in almost all the Member States is partly responsible for the declining volume of transaction passing through WAMA (Ogunkola, 2005:9). The use of WAMA by ECOWAS Member States to promote the use of each other's currency and preserve foreign exchange has generally not been effective as the clearing and settlement system requires the use of foreign exchange, thus the settlement system is clearly at odds with their aim of encouraging the use of each other's currency. Moreover, it has been identified that the amount of business conducted through the sub-regional agency does not reflect the level of intra-regional trade. The various structural adjustment programmes that most of the Member States have implemented over the past two decades led them to pursue such policies as the deregulation of the external sector and the devaluation of their currencies. It also enables them to have an increase access to foreign exchange and this have rendered the clearing and settlement system increasingly ineffective (WAMA, 1999:10).

Success on Cultural and Social Integration Initiatives

In the pursuit of social and cultural integration of the West African sub-region, ECOWAS encouraged its citizens to take an interest in its affairs, and it has introduced a number of measures to achieve this goal. Article 61 of the ECOWAS Treaty enjoins its Member States undertake to cooperate with a view to mobilize, the various sections of the population and ensuring their effective integration and involvement in the social development of the region. Article 62 also directs Member States undertake to pursue the objectives of the Community Cultural Framework Agreement (Harvey and Cushing, 2015:88).

In order to achieve these goals, ECOWAS set up a number of associations within its jurisdiction. The Organization of Trade Unions in West Africa was set up to encourage workers within the sub-region to take an active part in ECOWAS affairs. Furthermore, ECOWAS established the West African Universities Association to promote friendly relations among the universities within the sub-region, and coordinate activities between the universities and ECOWAS. The West African Youth Association and the West African Women's Association were also initiatives introduced by ECOWAS. The regional body also occasionally organizes football competition for football clubs that emerged as runners-up in their various national leagues under the management of the West African Football Union. Based on the increasing awareness of the capability and the need for the role of women to be taken into account in regional development and integration, ECOWAS has taken a number to measures to promote

their involvement in the integration process from all the member countries. ECOWAS decided in Article 63 of the Revised Treaty (ECOWAS Treaty) that “Member States undertake to formulate, harmonize, co-ordinate and establish appropriate policies and mechanisms for enhancement of the economic, social and cultural conditions of women”. One of the earliest measures taken by ECOWAS to involve women in the regionalization process is in the establishment of the West African Women Association (WAWA) in 1983 as one of its specialized agencies. WAWA was later re-organized and renamed ECOWAS Centre for Gender Development (ECGD) (UNESCO Annual Report: 2015).

Success in Conflict Resolution and Peace Keeping Initiatives

The subject of development cannot be discussed in isolation from that of security in the West African sub-region since both are interdependent on each other. The absence of one would ultimately not promote the needed progress in the sphere of the other. The political history of West African countries since independence in the early 1960s has not been a stable one. This is the main reason why the issue of peace and security in the sub-region is one of prime importance to ECOWAS. For instance, it is noted that regionally distributed coup d'états indexes show that between the 1970-90 periods, the West African sub-region had a total of 31 successful takeovers, 21 attempted coups and 54 plots. Compared to all other African regions, the West African zone has seen 55 per cent of all coup d'état, 33.3 per cent of all attempted coups and 50 per cent of reported plots (Aning, 1995:5).

Apart from these attempts at overthrowing governments, national authorities in Mali, Burkina Faso and Niger had to deal with the activities of Touareg rebel fighters in their countries (Olukoshi, 2001:11) while Nigeria is faced with activities of Boko Haram and Niger-Delta Militants. The issues of conflict and insecurity within the sub-region impugns negatively on ECOWAS Member States determination to pursue a meaningful and peaceful integration and development of their economies. The Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, guides ECOWAS Member States in their conflict prevention operations. It spells out various institutional structures with defined roles and objectives to promote peace and security in the sub-region. Under the regional security structure, three main institutions made up of the Authority, Mediation and Security Council, and the Executive Secretariat are to play major roles in achieving the security objectives of ECOWAS. The three bodies are to be supported by three other organs in the performance of their functions. These supporting organs are the Defence and Security Commission, the Council of Elders, and ECOMOG (ECOWAS Official website- security protocol). The Authority is made of Heads of State and Government of the ECOWAS countries and it is at the echelon of the

security structure. Its functions include attending to all issues included under the security mechanism of the Revised Treaty (Komla:66).

Furthermore, in order to maintain ECOWAS regional peace and security, the Commission had established peace support operations which have three components: military, civilian and police. For the military component, Actions undertaken within this framework include: (i) meeting of ECOWAS Committee of Chiefs of Defense Staff (CCDS) to examine the security situation in the region, Roadmap III of the ECOWAS Standby Force (ESF), assessment of implementation status of activities to set up the Regional Maritime Zone 'E' as well as to implement the Defense and Security Sector Reform (DSSR) Program in Guinea Bissau; (ii) tripartite meeting of Commanders in charge of training institutions and centers of excellence designated by ECOWAS, for the purpose of examining ways of strengthening technical and operational cooperation between ECOWAS Commission and these institutions in the area of training in peace support operations; (iii) holding planning conferences (initial and final) of Exercise Western Accord. This is a joint field training exercise (FTX) involving the United States Africa Command (US AFRICOM) and ECOWAS, which is aimed at building capacity for Peace Support Operations (PSOs). For the police component, the police Planning Unit is pursuing its Assessment of Training Needs (ATN) program, which started in September 2013. The goal of this program is to draft a document for the training of the ESF's police component. And lastly, for the civilian component, there has been internal review of the policy framework for the civilian dimension of the ESF and preparing a Directory of Civilian Reservists Ibid).

Achievements of ECOWAS on Democracy and Good Governance Initiatives

The Protocol on Democracy and Good Governance falls in line with the Declaration of Political Principles of the Economic Community of West African States, which was adopted in Abuja in July 1991, on freedom, peoples' rights, and democratization (ECOWAS: 2015). Essentially, the declaration contains the undertakings towards the establishment and smooth functioning of democratic institutions, human rights and rule of law (Gwaza, 2016: 1-22). It is by virtue of this Declaration that the revised Treaty prescribed the "promotion and consolidation of a democratic system of governance in each Member State" as a fundamental principle of the Community. In some of its provisions, the Protocol appears as "the political component of economic integration, which is the original purpose of the Community". It enshrines the principles regarding organization and exercise of state power that are common to Member States of the Community (UNECA, 2015:77).

The pursuit of democratic governance in ECOWAS can historically be linked to the desire of the Organization to attain and maintain peace and security for integration and

development of the West African region (Yaya, 2014:85-102). The end of Cold War in the early 90s, however, brought ECOWAS face-to-face with new challenges to the attainment of its goals. The region was threatened by violent intra-state conflicts, which started in Liberia in 1989. With little or no prospect of intervention by the international community, ECOWAS was provoked to venture into conflict management, resolution and peacekeeping in Liberia in 1991. Since the interventions of ECOWAS Commission in Liberia and Sierra Leone conflicts, the Commission has seen its purpose and objectives transformed to include political and security matters. New legal and institutional frameworks were developed to safeguard and promote new values such as peace, security, democracy, good governance, and human rights (Ibid: 102).

With regards to the promotion of democratic governance two Protocols were successively developed: the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security in December 1999 and the supplementary Protocol on Democracy and Good Governance in December 2001.

Promotion of Knowledge and Skills Transfer

In the area of education and training, the ECOWAS Protocol A/P3/1/03 adopted in January 2003 sets forth general principles of education policy, and encourages the movement of students and teachers within the region and cooperation among member countries (ECOWAS Protocol, 2003: AP3) AP/P3. ECOWAS launched initiatives for joint higher education and vocational training institutions, mutual recognition of certificates from specialized institutions, and coordination of education and training programmes and the evaluation of higher education and vocational training results in Member States. The ECOWAS Commission continued the implementation of 'ECOWAS Nnamdi Azikiwe Academic Mobility Scheme (ENAAMS)'.

The scheme is funded by ECOWAS Commission and managed by the Association of African Universities (AAU) based in Accra, Ghana. The ENAAMS is designed to avail opportunities for universities and other higher institutions in the ECOWAS Member States to derive optimum benefit from qualified and experienced lecturers and Education Resources in areas of strategic importance to the region such as Science, Technology and Mathematics (STEM), Agriculture, Regional Integration and African Renaissance. The implementation of the main components of the ENAAMS, which include ECOWAS Scholarship Program for Masters and PhD as well as Staff Exchange Program for lecturers continued in 2016 (ECOWAS Annual Report, 2016).

In line with the harmonization of Basic Education, a technical meeting was held on harmonizing Basic Education in the ECOWAS Region, with the objective of bringing it in tandem with international and regional strategies on Education. Furthermore, a framework for the

harmonization of basic education was developed with the ultimate goal of ensuring inclusive, equitable and quality education and learning in the ECOWAS Region. The framework focused on: Policies, Strategies and Planning; Curriculum enrichment; Vigorous promotion of Cross Border Languages; Vigorous promotion of Second International Languages (English, French and Portuguese) and Capacity Building for Quality Enhancement in Education (ECOWAS Commission , 2016:98).

ECOWAS Achievements in Infrastructural Developments in the Region

One of the primary goals of the meeting of heads of State and Government, held in Abuja in March 2000 was the creation of a borderless sub-region. The issues of inadequate and poorly maintained transport and communication facilities were identified as major constraints to cross-border trade, economic activities and movement of persons and goods. To achieve this objective, the feasibility study of the road from Lagos to Accra and Lagos to Ouagadougou was conducted while the construction of the road later followed. Also, that same year ECOWAS launched ECOAIR, a private sub-regional airline all in an attempt to foster smooth movement of goods and services. In February 2002, at Ouagadougou, it was agreed that the certificate for travelling within Community nations would become an ECOWAS passport.

Success on Youth and Sport Initiatives

ECOWAS youth and sport initiatives are coordinated by the ECOWAS Youth and Sports Development Centre and fall within the scope of the objectives of the Strategic Action Plan (2010-2020), as well as of ECOWAS youth and sports policies and action plans. They cover three main areas: sports and physical education, youth development, and the implementation of the ECOWAS Volunteers Program in pilot States. In area of sports, the Centre regularly organizes the ECOWAS Games and the ECOWAS International Cycling Tour. It also supports the organization of other sports tournaments in the region. In the field of youth affairs, the Commission is conducting capacity building programmes for youths. In 2014, training sessions on air conditioning and refrigeration as well as automotive mechanics were organized for 60 young people from 10 ECOWAS countries (UNECA, 2015: 75).

In 2011, the activities of the ECOWAS Youth and Sports Development Centre ECOWAS/YSDC bore on sports and entertainment, as well as capacity building and the ECOWAS Youth Volunteer Program (ECOWAS Annual Report, 2011). Sports and entertainment is an essential part of the YSDC activities by virtue of the masses it embraces. In 2011, one major activity was organized including the organization of a Wrestling match in Dakar. In the area of capacity building and youth empowerment in the sub-region, which is one

of the main objectives of the new Community vision, the ECOWAS Youth and Sports Development Centre (EYSDC) continue its youth training programmes in building electricity in Mali and agro-sylvo pastoral in the Republic of Benin.

Achievements of ECOWAS on Health Initiatives

The main strategies are to control epidemics, promote essential generic medications, manufacture and control the quality of medications; combat the spread of HIV/AIDS, and strengthen international partnerships. To achieve its goal, ECOWAS set up the West African Health Organization (WAHO). The West African Health Organization was formed in 1987. Its objective is the attainment of the highest possible standard and protection of health of the peoples in the sub-region through the harmonization of the policies of the Member States, pooling of resources, and cooperation with one another and with others for a collective and strategic combat against the health problems of the sub-region.

Regarding the control of HIV/AIDS, a document on convergence criteria for a minimum legal framework on HIV is available, the mapping of population sites with the highest exposure to HIV is also available and the multi-sectorial committee for the control of HIV in the ECOWAS has been set up. In terms of the control of epidemics, the Reference Laboratory for the diagnosis of potential epidemic diseases in Abidjan has been equipped and the revised guide for the Integrated Disease Surveillance and Response has now been adapted for nine countries of ECOWAS (ECOWAS, 2015: 45). Furthermore, WAHO largely contributed to the preparation and implementation of a Regional Integrated Operational Plan for Response to the Ebola virus.

Gender and Childhood Issues

ECOWAS efforts to integrate women in macro-economic development are exemplified in the different decisions of the Authority and some of the relevant Articles of the Treaty as follows (UNESCO, 2000:39): (i) in 1983 Decision C/DEC6/5/83 granted the West Africa Sub-Region Committee for the integration of women in Development observer status, (ii) in 1987, based on the: appreciation of the important role which the West Africa Women's Association was playing in the development of Member States, Decision NDEC.3/7/87 granted it the special status of specialized institution of ECOWAS, (iii) in Articles 61 and 63 of the ECOWAS Revised Treaty, Member States resolved to formulate, harmonize. co-ordinate and establish appropriate policies and mechanisms for the enhancement of the economic, social and cultural conditions of women based on the existing evidence, (iv) in 2001, the West African Regional Development Centre of the Economic Commission for Africa based in Niamey collaborated with ECOWAS and initiated discussions on the development of a sub-regional gender policy and gender

mainstreaming of the Community's programmes, (v) In 2002, collaborative efforts between ECOWAS, United Nations Development Fund for Women - UNIFEM and the Commonwealth Secretariat resulted in the presentation of a first draft gender policy to a meeting of Gender Technical Experts from the region and, (vi) The 26th Session of the Authority of Heads of State and Government of ECOWAS in January 2003, established a Gender Commission and the restructuring the West Africa Women Association WAWA into ECPWAS Gender and Development Centre-EGDC-A specialized institution to implement the gender policy, and do capacity building initiatives for Member States to perform their gender mainstreaming mandates(Ibid, 40).

Success of ECOWAS on Environmental Initiatives

The ECOWAS Environmental Policy, adopted in 2008, covers all activities relating to natural resources management (land, forests, wildlife, water resources), mines, ecosystem and biodiversity conservation, technological risk prevention and management, climate, pollution and other environmental hazards(Ibid, 41). The major objective of the environmental policy is to reverse environmental degradation and depletion of natural resources, ameliorate the quality of the living environment, conserve biological diversity, with a view to ensuring a healthy and productive environment; thereby improving the well-being of the ecosystem and the population. In the implementation of this policy, it takes into account the actions and initiatives of various stakeholders (parliamentarians, local government authorities, civil society, the private sector, etc.) and sub-regional institutions in charge of environment and sustainable development (UNECA, 2015:69).

Furthermore, the Monitoring for environment and Security in Africa (MESA) project was established within that framework, covering 2 (two) Thematic Actions in the ECOWAS space: (i) Water Management for Cropland and Rangeland Management in West Africa and Chad (MESA Land Thermal) and (ii) Coastal and Marine Management resources (MESA Marine Thermal). Also, a convergence plan for the sustainable management and use of forest ecosystems in West Africa was also adopted by the Ministers and has been published for purposes of its dissemination in the Member States. Regarding the implementation of the strategic sub-regional program to reduce vulnerability and enhanced adaptation to climate change, the activities relate in particular to West Africa's preparation for international climate negotiations (Ibid.).

ECOWAS Agricultural Policy Achievements

Majority of ECOWAS countries have given special attention to agricultural development. The results of this, however, have fallen short of expectations, and member countries still depend

largely on imports for some food items. West African agriculture remains well short of being able to drastically reduce poverty and food insecurity, and promote economic growth. Furthermore, the sub-region exploits only a very small portion of its vast available arable land, and remains highly dependent on weather conditions (ECOWAS, 2015: 40). Arising from the Comprehensive Africa Agricultural Development Program (CAADP), the specific objectives of the ECOWAS Agricultural Policy (ECOWAP) focus on: (i) food security for people in the region; (ii) reducing food dependence and achieving food sovereignty; (iii) involving producers in markets; (iv) creating jobs with guaranteed incomes in order to improve living conditions and services in rural areas; (v) intensifying production systems in a sustainable manner; (vi) reducing the vulnerability of West African economies by limiting factors of instability and regional insecurity; (vii) adopting appropriate funding mechanisms (UNECA, 2015: 67).

In the area of food security, ECOWAS adopted a program to support the regional offensive for sustainable and sustained rice production in West Africa, on the assumption that the region will achieve rice self-sufficiency by 2025. With a total cost of US\$467.5 million, it aims to modernize production systems and promote regional trade in local rice (Ibid). The second Sahel Pastoralism Support Project (PRAPS) aimed at developing strategies for building resilience by improving grazing land management methods; supporting livelihood diversification; improving social protection and social safety nets; ensuring political inclusion for pastoral populations; improving access of pastoral communities to social services; managing conflicts and cross-border issues; supporting displaced persons and refugees; strengthening warning systems and structures; and establishing procedures for drought management and disaster risk reduction.

The Protocol Relating to Free Movement of Persons and Goods, Right of Residence and Establishment

The bedrock of regional integration process is the free movement of goods, people, capital and services. As such, the freedom of movement and residence was provided for by the initial Treaty (Chapter IV, Article 27) and strengthened by Protocol/A/P1/5/59 on the free movement of persons, the right of residence and establishment, signed in Dakar on 29 May 1979. Several other protocols have been elaborated to supplement this 1979 protocol (Entered into Force 29, 1979):

- Protocol A/P3/5/82 to establish a Code of citizenship for the community signed in Cotonou on 29 May 1982.

- Additional Protocols A/SP2/7/85, A/SP1/6/89 and A/SP2/5/90 on the right of residence and establishment, signed respectively in Lome on 6 July 1985, in Ouagadougou on 30 June 1989 and in Banjul on 29 May 1990.

Other initiatives taken by ECOWAS Commission in the area of free movement of persons include reforms and remedial actions. In July 2014, in Accra, the Conference of Heads of State decided to revise all protocols on the freedom of movement. The new provisions in force are presented as follows (ECOWAS, 2015:26): adoption of a biometric identity card as travel document, to replace the ECOWAS travel certificate; withdrawal of the resident card (freedom of establishment granted to community citizens) and; free access to employment in Member States. ECOWAS Commission also set up a platform to harmonize immigration procedures and examine the introduction of applications for the ECOVISA (Schengen-type visa), which will eliminate the issuance of multiple-entry visas for third-country nationals to enter Member States for tourism or business purposes (UNECA, 2015): 51). In this view, a technical committee of the heads of immigration services of the seven Member States was set up to oversee its implementation.

To support the implementation of the Protocol on freedom of movement, ECOWAS led awareness raising efforts which resulted in stakeholder's support for the Protocol, and which had a positive impact on the rights of citizens of the Community to enter, reside, and settle in each Member State. Furthermore, the ECOWAS Commission established and implemented steering units for control along borders. With the aim of curbing harassment of travelers along border routes, the Commission is engaging the private sector and civil society to take ownership in implementing the Protocol on the free movement of persons. ECOWAS Commission also embarked on establishing an electronic registration system at the borders, entry and exit points, with the new ECOWAS biometric identity cards that will replace national identity cards. Other achievements by ECOWAS Commission on the movement of persons in the region include (ECOWAS, 2015: 72):

- Introduction of the ECOWAS Travel Certificate. The certificate has been adopted by all Member States but implemented by eight Member States, namely: Benin, Côte d'Ivoire, The Gambia, Guinea, Niger, Nigeria, Sierra Leone and Togo.
- Introduction of harmonized immigration forms which has been adopted by Member States, except Liberia.
- Establishment of National Committee responsible for monitoring programmes on the free movement of persons and vehicles. Adopted by all Member States, the following countries have actually set up their committees: Benin, Burkina Faso, Ghana, Guinea,

Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. However, given the many obstacles to the free movement of people and goods in the Member States, the monitoring committees face difficulties in achieving the goals set for them. The Police, immigration services, the Gendarmerie, Customs and other competent bodies of the Member States are charged with supervising entry and departure formalities at common borders. Through training, the Commission was strengthened, and most recently, in 2013, the capacities of national structures were also strengthened. In addition, the syllabus of training institutions in the Member States has been reviewed to ensure that they incorporate into their modules issues related to rights of residence and establishment, and rights of Community citizens.

- Introduction and adoption of the brown insurance card by all Member States except Cabo Verde. Twelve countries currently apply the system: Benin, Burkina Faso, Ivory Coast, Ghana, Guinea, Guinea Bissau, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo.
- Introduction of laws on the right of establishment and residence. The legal basis for these rights exists and, in many cases, the rights were enforced. However, citizens still face restrictions as implied by the protocol of free movement. The reason for these limitations is attributed to selective implementation of the protocols on free movement and of the relevant provisions on free movement, proliferation of unauthorized roadblocks, harassment at border crossings, and lack of knowledge among ECOWAS citizens and security employees on the rights set out in the Protocol on free movement.

The Protocol Relating to the Community Court of Justice

The Community Court of Justice was established under Article 11 of the ECOWAS revised Treaty of 1993. It came into effect on 5 November 1996, as the principal legal organ of the organization. The Court is to ensure the observance of the law and the principle of equity in the interpretation of the provisions of the Treaty. It is to deal with dispute referred to it if in accordance with the provisions of Articles 56 of the Treaty (Butu, 2013:56). It is composed of seven independent judges who are appointed by the Authority of Heads of State and Government (Ibid. 57). These Judges are required to be of high moral character and serve a four-year term on the recommendation of the Community Judicial Council. The seven Judges are usually selected from the total nominations of not more than two judges selected by Member States. The mandate of the Court is 'to ensure the observance of law and of the principles of equity and in the interpretation and application of the provisions of the Revised Treat and all other subsidiary legal instruments adopted by Community (ECOWAS, 2012). It operates under

two broad categories of jurisdiction which are the advisory and contentious jurisdictions. It gives legal advice on issues that require interpretation of the Community text under the advisory jurisdiction.

The Court of Justice successfully formulated its Rule of Procedure and approved by the Council of Ministers. The Community Court of Justice of the Economic Community of West African States (ECOWAS Court) is an increasingly active and bold adjudicator of human rights. Since acquiring jurisdiction over human rights complaints in 2005, the ECOWAS Court has issued numerous decisions condemning human rights violations by the Member States of the Economic Community of West African States Community (Alter, etal 2013: 737-779).

The relevance of the ECOWAS Community Court of Justice was challenged by its very first case, which involved an individual complaint not contemplated by the Court's Protocol. Interestingly, this first case, *Afolabi Olajide v Federal Republic of Nigeria*(2008, Suit No. ECW CCJ APP 01=03) raised issues around the question of individual access to the court. The question of individual access related to human rights and fundamental freedoms partly founded on the recognition accorded to the African Charter in the Revised Treaty (Supra). While the ECCJ declined jurisdiction in Olajide's case, linked to the new visibility of human rights in the ECOWAS community agenda, prompted the amendment of the 1991 Protocol on the Community Court of Justice.

Several cases have been filed before the Court so far, but one weakness of the Courts is that it does not give the Community's citizens or any individual whose rights has been infringed upon a direct access to it. In addition, the Court ought to be a means by which ECOWAS sanctions member-states that violate its protocols or decisions and stamps its authority on erring member-states. However, the Court has been unable to achieve this. Cases of alleged human rights violation by individuals and corporate bodies constitute a major bulk of the work of the ECOWAS Court within the first decade of its existence. Evidence from the records of the Court show that more than half of the reported judgments of the Court deals primarily with issues of human rights violations and another 20% raises issues that border on human rights violations as secondary issues(Alabi. 2013:23).

Actions for the enforcement of Community obligations against a Member State or institution, or what Donli calls "infringement proceedings (Donli, 2006:32), are permitted to be instituted before the Community Court of Justice, ECOWAS. By Article 9(a) and (b) of the Protocol on the Community Court of Justice as amended by the Supplementary Protocol, the jurisdiction of the ECOWAS Court extends to include the interpretation and application of the principal and subsidiary legal instruments of the Community. Very little litigation before the ECOWAS Court has been brought under this head of claims. Often, actions founded on

violations of human rights made some claims of failure to fulfill obligations against Member States, particularly in respect of the African Charter on Human and Peoples' Rights. There are many of such cases which seek to compel States to abide by the Treaty and other obligations as the core claim, even while alleging human rights violations. In the case of *Olajide Afolabi v. Federal Republic of Nigeria*(2004-2009 CCJELR), the Plaintiff alleged that the unilateral closure by Nigeria of its border with the Benin Republic infringed the provisions of Articles 3(2)(d)(iii) and 4(g) of the Revised Treaty of 1993 and the Protocol on the Free Movement of Persons and Goods, in addition to violating his fundamental rights. He accordingly sought a mandatory order of injunction to restrain Nigeria from further closing the borders. The case was not heard on the merit as the Court declined jurisdiction to entertain the suit because individuals at that time had no direct access to the Court.

RECOMMENDATIONS

* The study recommends a strong and comprehensive constitutional framework to guide the activities of ECOWAS in strengthening cooperation and integration in order to achieve sustainable growth and development in the sub-region. Member countries that are signatories to ECOWAS Protocols should be made to fulfill their financial obligations to the Union. Hence, a viable and sustainable enforcement mechanism should be put in place to checkmate erring and recalcitrant members to serve as deterrent to others.

* The study also recommends that there should be penalties put in place for recalcitrant members who do not fulfill the obligations in the protocols they are signatory too. Also, the commission should see to the enforcement of such penalties so as to serve as deterrence for non-compliance. Hence, this would help to achieve a considerable level of compliance by member countries. This would also help the organization in the implementation of its set goals.

* The study further recommends the removal of unfair trade laws, custom and immigration restrictions imposed by corrupt officials, while the immigrations and customs of member states be adequately carried along to ensure compliance with existing protocols. Thus, this would facilitate the process of integration in the sub region, which is the main objective of the community.

* The influence of globalization should not be downplayed by member countries as regards to the processes of integration in the region. The colonial influence as regards the relational commitments of member states should also be eliminated. This will help in the facilitation and harmonization of the various protocols of the community.

CONCLUSION

The study seeks to evaluate the effectiveness of the implementation of ECOWAS Protocols and assess the desire for a Union of West African States. The rationale for integration in West African sub-region was social, political and economical to promote the unity of states and their faster economic development. Some of the ECOWAS policies towards integrating West African sub-region have not been effective as expected due to the peculiarities of the regional body, as regards inadequate funding and inability of member countries to meet up with their financial obligations. The inability of member countries to meet their obligations has been a major challenge of the community. There is also unwillingness on the part of some member states in the fulfillment of their obligations. There is a negative influence of the colonial governments and globalization in the process of integration in West African sub-region. There is the absence of a common constitutional framework in the sub-region which has affected the process of integration. As a way forward, since finance is the live wire upon which any community can thrive, it is imperative that an effective monetary mechanism to make member states fulfill their financial obligations to the community should be implemented.

The study however concludes that a comprehensive regional Constitution and a monetary policy will be instrumental in achieving a deep and accelerated integration and cooperation on the path to sustainable growth and development of the West African sub-region in a drift to statehood. Further studies should improve on the methodologies on the study as there are limitations to the content analysis adopted in this study. Further studies also should focus on the impacts of suitable regional Constitution to the sectorial development policies and mechanisms of the West African sub-region.

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