

Aug-2017

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## Recommended Citation

Aduloju, Ayodeji Anthony (2017). ECOWAS and Free Movement of Persons: African Women as Cross-Border Victims. *Journal of International Women's Studies*, 18(4), 89-105.

Available at: <http://vc.bridgew.edu/jiws/vol18/iss4/7>

## **ECOWAS and Free Movement of Persons: African Women as Cross-Border Victims**

By Ayodeji Anthony Aduloju<sup>1</sup>

### **Abstract**

Existing literature has investigated the challenges of interstate border dispute, border conflict and their security and developmental implications for the West African sub-region. ECOWAS Free Movement Protocol of Persons was instituted to enhance economic development of West Africa's citizens. However, studies have shown that the protocol has relatively aided trans-border trafficking in persons, drugs, Small Arms and Light Weapons (SALW). However, vulnerability of trans-border women traders in the sub-region have received little attention. This study utilized both primary and secondary sources of data gathering in order to interrogate the provisions of ECOWAS Protocol on Free Movement of Persons vis-à-vis its operationalization and incapacity to increase women's economic opportunity and empowerment in West Africa. Through field survey, twenty (20) interviews were conducted at the Nigeria-Benin border. The interviews targeted 14 purposively selected women traders at the border, two officials each of the Nigerian Immigration Service, Nigerian Customs Service and the Nigeria Police Force. Moreover, observation method was employed to substantiate the interviews conducted. Data obtained were analyzed using descriptive analysis. Consequently, this study discovered that women constituted more of trans-border traders on Nigeria-Benin border, and precisely in West Africa. In addition, they are vulnerable to extortion, intimidation and sexual harassment by border officials, which has impinged on their rights contained in the ECOWAS Protocol on Free Movement of Persons. The study showed that the protocol does not fully protect women (mostly the ones with low economic characteristics who constitute larger population of women at the border) and thereby having implications for their livelihood and survival. The study then concluded that while the problem faced by women on the Nigeria-Benin border persists, it has a huge impact on the credibility of ECOWAS to properly integrate the sub-region for development and for the benefit of its significant population of women.

*Keywords:* Sub-regional Integration, ECOWAS Free Movement Protocol, Gender, Trans-Border Women Traders, and West Africa

### **Introduction**

Trans-border movement has been the focal point of various regional and sub-regional organizations across the world. Available evidences indicate that human movement in West Africa has been in existence from time immemorial. Trade, search for pasture, urbanisation, agriculture, mining, industrial production, armed conflict, environmental insecurity, land degradation, drought and rural poverty are among the factors that have engendered this migration trend (DFID, 2004). Prior to the infamous Scramble for Africa and the ensuing arbitrary boundary delineation, inhabitants of the West African sub-region maintained high regularity of free movements and

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interactions with each other. During this period, a number of exchanges and interventions were made at different levels including cultural, language, religion, trade, customs, and traditions. Relations among existing groups within the sub-region seemed to have remained unperturbed regardless of the partitioning and creation of states with artificial boundaries by European colonizers in the nineteenth century. The root causes of movement of people within and across West Africa, the nature and character of interactions they maintained as well as established common bonds have not been “altered either as a result of forceful separation of kith and kin into different countries nor was the native language tampered with” (Adeola and Fayomi, 2012: 1). The regain of political freedom or independence from the various colonial powers that made obnoxious intrusions to this region has made greater interactions among West African states even more imperative. The post-independence era has witnessed increasing frequency and intensity of economic and political relations among these states, the objectives of which pursuit includes attainment and sustenance of peace and security as conditions sine-qua-non for socioeconomic and political advancement. Over the years, this mindset has re-shaped, guided, and promoted formulation of policies that center on socio-economic, political, and security cooperation and unity of the citizenry. This has been largely possible through the institution of the Economic Community of West African States (ECOWAS) in 1975.

ECOWAS was founded as an umbrella organization for integration without tampering with common historical bonds among the states within the sub-region. The organization was charged with the responsibility of ensuring transformation of the sub-region into a community. This is evident in the various treaties and protocols adopted by the community which provide for elimination of all the barriers to mutual development and peace. In order to maintain traditional identities, cultures, traditions and religions of diverse groups within the sub-region, removal of barriers to free movements of citizens of these states was significantly advocated; hence, the signing of ECOWAS Protocol on Free Movement of Persons, and the Right of Residence and Establishment in 1979 (ECOWAS, 2006; Opanike, Aduloju and Adenipekun, 2015; and Opanike, Olayode and Aduloju, 2015). Article 27 of the ECOWAS Treaty makes provisions for freedom of movement and residence. The Article’s Protocol on Free Movement of Persons, and the Right of Residence and Establishment is one that the community has effectively implemented and achieved results. This protocol affords citizens of the Community the right of residence and establishment anywhere within the territory of Member States (ECOWAS, 1979). There is no doubt that this will enhance cooperation among states and citizens of the sub-region. The protocol in question has enhanced incessant movements of “refugees, male and female traders, farm labourers and cross-border workers across borders.” There is no doubt that this effort will create a borderless sub-region within which there will be free flow of goods and services.

Notwithstanding, there is heated debate in academic and public spheres on the security implications of the ECOWAS Protocol on Free Movement of Persons and Right of Residence and Establishment for states in West Africa. Studies have shown that the protocol cannot be held responsible for prevailing vicious and nefarious activities such as human trafficking, smuggling in contraband goods, Small Arms and Light Weapons, (SALW) (Onwuka, 1982; Agyei and Clotney, 2007; Clark, 2014; Opanike, Aduloju and Adenipekun, 2015; and Opanike, Olayode and Aduloju, 2015). It can be observed that West African citizens are yet to fully benefit by the provisions of this Protocol due to its partial implementation within its confines. Nonetheless, economic activities at border posts particularly that of Nigeria-Benin have continued to grow in size and volume. The importance of this border is not hinged or drawn from the fact that they record the largest flow of money, trade, people, and labour but that the most populous country (Nigeria) in the sub-region is

the final destination for goods from other states within the sub-region (Blum, 2014: 3-4). As a result, the border of these two countries have gained considerable attention in public debates and in academia on issues bothering on ECOWAS and border problems like trade barriers, land barriers, illegal checkpoints, corruption, extortion and intimidation by border officials (Sossou-Agbo, 2013). These pose as challenges to the operationalization of the Protocol on free movement persons along these borders.

Moreover, it has been argued that trade and movements along the border have gender dimensions (Central Asia Regional Economic Cooperation, 2007; Jawando et. al., 2012; Ghils, 2013; and Gyampa, 2014). In the same vein, “women are more actively involved in border-trading activities such as moving goods through border crossing points as this is one of the numerous activities women can take-up with little or no resources” (Central Asia Regional Economic Cooperation, 2007 cited in Jawando et. al., 2012: 29). West Africa is not an exception given that its women also engage in cross-border trade. In spite of this, it appears that little or no attention has been drawn to the difficulties that West African women traders faced on daily basis at border posts within the sub-region and how this has impinged on their rights as provided for in the ECOWAS Protocol on Free Movement of Persons. Even though men are no exceptions to these challenges, due to the fact that women are the more vulnerable group who suffer the brunt of these challenges, they form the prime objective of this study. The case of Nigeria-Benin trans-border activities has been employed in our consideration of the vulnerability of trans-border women traders in West Africa vis-à-vis the interrogation of ECOWAS Protocol on Free Movement of Persons, its operationalization and the capacity or otherwise to increase women’s economic opportunity and empowerment in the West African sub-region.

### **ECOWAS and its Protocol on Free Movement of Persons**

The establishment of the Economic Community of West African States was the culmination of the effort aimed at defusing France overwhelming influence in the West African region particularly on its former colonies. Under intense and expeditious sway and, perhaps, pressure by erstwhile colonizer France – to which they owe strong allegiance–neighbouring Francophone states unleashed treachery and ill treatment on Nigeria, which self-preservation and continuous existence as a single indivisible sovereign entity, came under intense threat of withering away, as a result of raging secession war waged on it by Biafra rebels from 1967 to 1970. Together with the French government of the time, some of the former French colonies in West Africa played active roles in, and gave committed support to, the Biafra cause which prime objective was dismemberment of Nigeria. A few of them gave formal recognition to Biafra as a ‘legitimate’ sovereign republic. Safeguarding Nigeria against external ill-will and subversive activities by its Francophone neighbours, goaded by their paternalistic colonizer France, was believed could be accomplished through creation of a sub-regional organization to foster regional integration and cooperation. It was believed that regional unity will critically defuse French control of its former colonies in West Africa and their deference to and overdependence on France. Apparently, the foundation of ECOWAS was laid based on Nigeria’s interest as well as to serve it (see, Fawole, 2003). Nevertheless, the tenability of this position may be relative when the organization’s achievements are brought under consideration. Composed of 15 member states, ECOWAS has over the years worked towards ensuring the development of its members through economic and political cooperation. To Francis (2009: 91), the organization has emerged as the most developed and complex sub-regional organization in Africa. To him, the formation of

ECOWAS engender by a number of objectives, the most significant of which is attainment of regional economic development. Viewing it through economic lens, ECOWAS formation is a national and regional development strategy while the political angle views this effort at regional integration as an “instrument of foreign policy and a collective political bargaining bloc” (ibid: 92).

In a bid to attain regional integration objective, members states have approved of certain schemes or strategies, some of which are Liberalization of Regional Trade; Liberalization of Movement of Persons, Goods and Services; Harmonization of Monetary and Fiscal Policies; Harmonization of Business Law; Development of Transport, Communications and Energy Networks; and Involvement of the Private Sector in the Regional Integration Process (Onwuka, 1982; Opanike, Aduloju and Adenipekun, 2015; and Opanike, Olayode and Aduloju, 2015). According to Kouyate, (2013), the *raison d'état* for the adoption of these integration schemes was their germaneness to national economic interests of states within the community and the contribution to the ultimate economic union goals. ECOWAS has been compelled by contemporary political events to extend its horizon to take up additional responsibilities of addressing worrisome challenges such as armed conflicts and other political crisis which undermine peace and security within the community (Yabi, 2010: 5). These additional responsibilities were adopted only out of necessity. Therefore, this act should in no way be viewed as a shift from the organization's preoccupation with its supreme regional economic development agenda.

ECOWAS Protocol on Free Movement of Persons and Right of Residence and Establishment encapsulates what is considered the most significant of the organization's objectives. This is due to the fact that genuine integration is facilitated by free movement of citizens in the community who, perhaps, constitute the main agents of this cause. This makes the protocol the bedrock of the organization's overall goals (Opanike, Aduloju and Adenipekun, 2015: 44). Four supplementary protocols have been drawn up by the organization in 1985, 1986, 1989, and 1990. Adepoju, Boulton and Levin (2007: 2) provide a summary of the features of the Protocol on Free Movement of Persons and Right of Residence and Establishment as well as those of the four Supplementary Protocols in a diagrammatic representation as follows:

### **1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment**

- Sets out right of Community citizens to enter, reside and establish in territory of member states (Art. 2(1))
- Establishes three-phased approach over 15 years to implementation of (I) right of entry and abolition of visas, (II) residence and (III) establishment (Article 2).
- Conditions entitlement to enter territory of member state on possession of valid travel document and international health certificate (Article 3(1))
- Reserves right of member states to refuse admission into territory of Community citizens deemed inadmissible under domestic law (Article 4)
- Establishes some requirements for expulsion (Article 11) • Confirms that Protocol does not operate to detriment of more favourable provisions in other agreements concluded by member states (Article 12)

### **1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment**

- Obliges member states to provide valid travel documents to their citizens (Article 2(1))
- Establishes additional (to Article 11 of Protocol) requirements for treatment of persons being expelled (Article 4)
- Enumerates protections for illegal immigrants (Articles 5 and 7)

### **1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence)**

- Requires states to grant to Community citizens who are nationals of other member states “the right of residence in its territory for the purpose of seeking and carrying out income earning employment” (Article 2)
- Conditions entitlement to residence (and thus seeking and carrying out of income earning employment) on possession of an ECOWAS
- Residence Card or Permit (Article 5) and harmonization by member states of rules appertaining to the issuance of such cards/permits (Article 9)
- Prohibits expulsion en masse (Article 13) and limits grounds for individual expulsion to national security, public order or morality, public health, non-fulfillment of essential condition of residence (Article 14)
- Stipulates equal treatment with nationals for migrant workers complying with the rules and regulations governing their residence in areas such as security of employment, participation in social and cultural activities, re-employment in certain cases of job loss and training (Article 23)

### **1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment**

- Amends provisions of Article 7 of Protocol to confirm obligation on signatories to resolve amicably disputes regarding the interpretation and application of the Protocol (Article 2)

### **1990 Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right to Establishment)**

- Defines the right of establishment emphasizing non-discriminatory treatment of nationals and companies of other member states except as justified by exigencies of public order, security or health (Articles 2-4)
- Forbids the confiscation or expropriation of assets or capital on a discriminatory basis and requires fair and equitable compensation where such confiscation or expropriation (Article 7).

**Source:** Adepoju, Boulton and Levin, 2007: 2

In Article 2 (3) of the free movement protocol, ECOWAS sets out to achieve all the above in three phases, namely:

- Phase I - Right of Entry and Abolition of Visa
- Phase II - Right of Residence

Phase II - Right of Establishment as part of its commitment on free movement of persons in the sub-region, ECOWAS in year 2000 introduced a single passport to the community citizens (ECOWAS, 1979).

The first phase of this protocol provides for free entry of citizens of Member States without visa for ninety days which all the ECOWAS component members adopted and ratified in 1980. In the second phase of the protocol, right of residence was given priority and became effective in 1986 as adopted and ratified by all Member States. In the supplementary Protocol of 1990, provisions for the implementation of the third phase (i.e. Right of Establishment) were made. The said protocol was adopted in 1990 and came into force in 1992 (ECOWAS, 1979; 1981; 1985; 1986; 1990; and 1993). The Supplementary Protocol on implementation of the third phase has been ratified by fourteen member states of the ECOWAS in 2008 (Opanike, Olayode and Aduloju, 2015).

On the contrary, Boulton (2009: 32) opines that “the main shortcoming of these highly favourable provisions in the free movement protocols is that they are either not known or not implemented.” He further reveals that on the theoretical level, all three phases are complete and the entitlements set out in the free movement protocols are the law of the region. Nonetheless, the glaring reality is that only the first of the three phases has been fully implemented (ibid: 32). The reason for this is not far-fetched in that not all the member states of the organization have incorporated the provisions of the protocol in their individual state laws let alone to implement them. For travelers, migrants, job seekers, tourists and traders in the sub-region, the difficulties in moving across West African borders are imposed by obnoxious activities of border officials who exploit to their own ends the restoration of the barriers that the protocol sets to remove. This makes movement within the community a stressful and harrowing experience. This is unlike what is obtainable in the European Union (EU) Agreement on the Free Movement of Persons (AFMP), where citizens of one member country are granted express authorization and the right to work, trade, and migrate to other EU countries. According to the European Union (2010: 4) “this right is one of the most visible advantages of the European Union for individual citizens.” It is estimated that eleven million EU citizens have taken advantage of free movement of persons to take up residence in another EU country under the Schengen Agreement (ibid.). Though the EU’s free movement may not be a perfect paradigm, the results achieved so far have infused it with some measure of credibility and have provided important suggestions to building a formidable borderless community from which the ECOWAS can borrow a cue.

### **Nigeria-Benin Border and its Women Traders**

Nigeria and Republic of Benin are geographically coterminous. In fact, they are next door neighbours who have a lot in common ranging from culture, language, religion and tradition. The international border between these states is roughly 700 km long (Blum, 2014: 3). The two countries represent an illustration of the flaws in the colonial arbitrary delimitations of boundaries that ensued from the infamous European imperialists’ Scramble and Partition of Africa in 1884-1885, and more so the sharing formula used by the French and British colonial regimes in West Africa (Asiwaju, 2011: 3). The near absence of natural barriers to depict geographical frontiers coupled with increasing and deepening interactions among the inhabitants of this area had faded the inconspicuous borderlines into obscurity prior to its penetration and partition by the colonialists. Following the latter development, the existing border between these countries over

the years has transformed into trading post of huge economic importance, thereby attracting enterprising citizens, especially women, from across the border of both countries and other West African republics. Goods such as local fabrics, jewelries, pepper, fish, crayfish, crabs, fruits, palm oil, groundnut oil, local seasoning constituted articles of the flourishing pre-colonial trade by barter that had been in existence in this area. The creation of artificial boundary by the colonial powers has never been allowed to cause disruptions to the deep commercial relations maintained by the peoples of this area. Rather the trading relations can be said to have experienced a boom from the huge volume of trade being recorded. Seme border and Idiroko border in Lagos and Ogun States respectively are crucial border towns linking Nigeria and Benin republic, where there are snowballing trans-border activities between the two countries. In contemporary times, goods such as fairly used automobiles (from Europe and America), fabric, rice, agricultural products, groceries and jewelries form the major trading items at the border markets of the area under study. Smuggling and illegal importation of contraband goods remain integral part of the cross-border commercial activities. Smugglers who have ingrained common interest in the evasion of import duties are also tapping from the economic importance of these borders. Border officials charged with the responsibility of protecting territorial integrity of their various countries exhibit high commitment to checkmating the activities of smugglers, notwithstanding their occasional derelictions as well as bribery and corruption which often aid and abet border criminality and its spill-over to hinterlands.

West African women have seized the available economic opportunities provided by the Nigeria-Benin borders to foster their economic security. Historically, women have been reputable for being crucial part of the commerce conducted at the areas which are today known as Nigeria-Benin borders. Women traders from Ghana, Togo, Liberia, Côte d'Ivoire and Sierra Leone meet at the border markets between Nigeria and Benin for exchange of goods and services. Most of them have maintained the ancient patterns of contact practiced by their forebears in post-colonial times. Thus, there is maintenance of the traditional contacts among the women across this region. They have often formed mini and large markets along the border where they are engaged in formal and informal trade. Some of these women have been used by their male counterparts for nefarious activities like smuggling of contraband goods and trafficking in persons and drugs.

## **Research Methods**

This section discusses the data used for this study, including the method of data collection, sampling techniques and data analysis. The research focuses on the provisions of ECOWAS Protocol on Free Movement of Persons vis-à-vis its operationalization and capacity to increase women's economic opportunity and empowerment in West Africa.

### *Study Area*

This study has utilized primary data which was garnered through field survey conducted at the Nigeria-Benin Border as well as the Nigerian Immigration and Customs Services and the Police Force. There are various legal and illegal entry and exit points in Nigeria which allow for both vehicular trafficking in human and goods. Seme, Idiroko, and others are but a few examples of these entry and exit points. However, Seme and Idiroko border ports have been purposively selected for this study because they are legally recognized ports and record the largest number of vehicular and human transportation of goods. The choice of the Nigerian Immigration Service,



Customs Service and Police Force was informed by their significance in the provision of vital information relevant to this study.

### *Study Population*

Bernard and McCarthy (2012) define Population as the entire set of people or data that are of interest to a researcher. In the same vein, Shirley, Stanley and Daniel (2004) state that population is commonly understood to be a natural, geographical, or political collection of people, animals, plants, or objects. Moreover, population data are defined as the data collected from every individual of interest.

The population for this study comprised women traders at Seme and Idiroko border posts and officials at the Nigerian Immigration Service, Nigerian Customs Service and the Nigerian Police Force. Women traders are the main objects of this study while senior officials at the various Nigerian institutions listed above were purposively selected in order to access dependable information with respects to this study.

### *Sample Size and Selection*

Sample data are the data collected from some individuals of interest (Brase and Brase, 2012). This survey purposively targeted 14 women traders at the border posts of Seme and Idiroko who are 18 years and above. In the same vein, two officials each at the Nigerian Immigration Service, Nigerian Customs Service and the Nigerian Police Force were interviewed. Twenty respondents in total participated the various interview sessions conducted by the researcher.

### *Instrument of Data Collection*

Interviews and personal observations were useful methods employed in garnering primary data for this study. Interview is a quantitative primary data collection technique that involves verbal conversations involving, in this case, the researcher whose main objective was to elicit relevant facts and information from the respondents. There are five types of interviews as personal, telephone, focus group, in-depth and the projective. Only two of the five listed types of interviews, precisely personal and the focus group interviews, were employed by the researcher in the process of primary data collection that is pertinent to this study.

Interviews are particularly useful for getting the story behind a participant's experiences and to complement certain accounts of other respondents so as to enable the interviewer pursue in-depth information around the topic (McNamara, 1999). The advantages of this method notwithstanding, it is characterized by certain limitations depicted by respondent's geographic proximity, length and complexity of the questions, number of respondents and anonymity as well as disinclination of respondents to disclosing certain valuable information to the interviewer. Pre-testing was conducted prior to ultimate conduct of actual interviews for this study to rid the questions of ambiguity and rhetoric.

### *Observatory Method*

The number of check-points from Badagry in Lagos to Seme as well as Sango Otta in Ogun State to Idi Iroko border posts was counted. Also, covert observations by the researcher were made about the horrors women traders went through at the hands of immigration, custom and police officials in ensuring that their consignments from Benin reach their final destination in Nigeria. The vulnerability of the women traders to advances by the border officials and the predisposition of some of these traders to these unsolicited advances were observed too.

### *Method of Data Analysis*

The data collected was analyzed through the use of simple descriptive analysis technique. To this end, views of respondents were quoted and discussed.

### **Analysis and Discussion**

In this section the study analyses all the data gotten from Seme and Idiroko border posts. Issues involving the capacity of the ECOWAS Protocol on Free Movement to increase the economic opportunities of trans-border women traders in West Africa are discussed below.

### **Analyzing the ECOWAS Protocol on Free Movement and Travails the of Trans-Border Women in West Africa**

Through field observations by the researcher at the border ports purposively selected, it was gathered that women traders at the Seme and Idiroko border ports constitute the larger population. This corroborates the findings of study survey conducted by Central Asia Regional Economic Cooperation in 2007 as cited in Jawando et. al. (2012: 29), that women are more actively involved in trans-border trading activities. It was also observed that men engaged more in the automobile markets while women have the larger population in business transactions in groceries, agricultural products, fabric, jewelries, and cooking oil. These transactions run into billions of US dollars in a year. Some of the women have a huge capital to finance their businesses while a larger percentage of them have low capital. In the course of all the interviews at Seme and Idiroko border ports, women with large capital base of one million naira approximately \$5, 016.31 USD (Central Bank of Nigeria Exchange Rate as at 15th October, 2015) and above do not encounter much problems with border official. One of the respondents interviewed at Seme border, Mrs. Sarifatu Adisa asserted that:

Money resolves all the issues that a business woman may encounter at this border. If you have money and are doing business here, you will not experience difficulty in securing a vehicle that would convey your goods to the shop. Also, the police, customs, and immigration officials will not be big problem for you. You could bribe them to eliminate the delays and sabotage they constitute to prompt delivery of your consignments. (*Original interview translated from Yoruba language*)

In line with Mrs. Sarifatu Adisa's claim, another border woman trader who was interviewed at Idiroko border port in Ogun state, Mrs. Chizom said:

If you understand or have the clue that it takes money (issuing bribe) to deal with the problems that border officials pose to traders here, you will always be on top of your game and every situation they would rather have created for you. There would be no impediments to quick movement of your goods. Traders face obstacles of all sorts, which are created and meant to frustrate them by border officials, when either they have no money to bribe officials, are unwilling, or blatantly refuse to issue bribe. Whenever I come to buy goods here, I come prepared for every hurdle. I separate the officers' money from the money I use in

buying goods and so I always find it easy to do business in this place. (*Original interview translated from Pidgin English*)

From the experiences of these women, it requires a strong capital base to do business at the border ports. This will enhance the trader to dismantle the obstacles associated with trading at the Nigeria-Benin borders. However, women whose business capital is low and inadequate have lamented the problems of extortion, sexual harassment and intimidation by the border officials. One of the respondents in this category, Mrs. Idowu, narrated her ordeal at the border market thus:

Without any considerations to the quantity of goods purchased, border officials unlawfully demand for a fee from traders. Some of these officers make sexual advances to the women of their choice regardless of their marital status. Some desperate women traders have often succumbed to sexual exploitation by border officials in order to ensure hitch-free passage of their consignments. I am much more morally upright and not desperate and so have always refused to yield irrespective of my awareness of the consequences. I love my husband and cannot afford to cheat on him for the purpose of avoiding frustration at the borders. The painful aspect of these extortions is that they are made at all the check-points that are dotted along the borders. (*Original interview translated from Yoruba language*)

Most victims of this unfortunate and illegal trend at the borders broke down emotionally during the discussion sessions held with them. Their frustrations were made visible as they recount their ordeals at the border. These problems are not new as recent studies and debates affirm the claims by Mrs. Idowu (Obuah, 2010; Jawando et. al., 2012; Ladan-Baki, 2014; Ewetan and Urhie, 2014; Adeyinka, 2014; Blum, 2014; Opanike, Aduloju and Adenipekun, 2015; and Opanike, Olayode and Aduloju, 2015). Their persistence is rather disheartening even though it is not all the women traders are engaged in legitimate trade as some of them participate in smuggling and illicit trade.

On the contrary, a senior Nigerian Customs officer who pleaded anonymity refuted this claims by stating that:

On several occasions, women traders at the borders have willingly attempted to offer inducements or bribe to our officers on patrol to allow them smuggle contraband goods into Nigeria. They have often found accomplices in some men with whom they connived to import goods through illegal entry ports. Our men who carry out frequent patrols along the borders have always made arrest of criminals and smugglers and make them bear full weight of the law. They (border officials) have also always confiscated smuggled goods and destroyed them.

When questions centered on the officers taking bribes were asked, the response by this officer was nothing but outright denial. To strike a balance in the disparate accounts rendered by both the border officials and traders, the researcher resorted to making personal observations through which it was discovered that Customs officers along the border inflict undue extortions on the women traders. From Seme border to Badagry in Lagos state and Idiroko border to Sango Otta in Ogun state, the number of check-points are just too numerous. It is disheartening to note that

these check-points are adjacent as they are mounted in walking distances to each other. It was also observed that both Customs and Police officers in some areas mount their roadblocks very close to each other and the traders are expected to gratify them at each point. Another evidence to validate this statement is a grim picture of the activities of some Customs officers painted by Okom and Udoaka, who conducted an interview with a woman at the Seme border, in which the woman said that she had to hid her USD 2000 in her wallet to prevent customs officials at the border from stealing them during their illegal search and seizure of valuables (Okom and Udaka, 2012: 121).

Recalling their ordeals on every market day at *Oja Odan* (Odan market), a Beninese, and a Togolese gave accounts of their problems. The Togolese woman claimed that:

Nigerian traders do come over to our country and buy goods from us. They have always wanted to come back over and again but for the increasing and deepening border problems they keep encountering at the Nigerian borders with Benin and Togo. I have no choice than bring the goods to this Nigerian border market. I also do encounter problems on my way and I do bribe police, customs and immigration officers in Togo, Benin and Nigeria before getting to this market. *(Original interview translated from Pidgin English)*

The Beninese woman also relayed the ordeal of trans-border women traders in West Africa to bolster this claim thus:

Most of our clients used to be Nigerian traders. Recently, we have been experiencing a sharp decline in their turnout which is accountable to the persistent issues they do have with borders officials. We have resolved to be coming to this market on every market days to sell to them in order to ease their problems. It is exigent for me to come here and sell my goods since Nigeria constitutes the largest market for West African businesses. *(Original interview translated from Egun language)*

These claims have buttressed the fact that border officials in West Africa have enormously contributed to the impediments bedeviling trans-border women trading activities within the sub-region. There is consensus among the respondents that there are some women who engage in illicit trade and that all the borders officials in the sub-region are corrupt. All the women traders interviewed upheld the view that Nigeria border officials and security agencies are more corrupt than their counterparts from other countries within the sub-region. Although the problems confronting women traders at the borders in West Africa are not new, recent firsthand information derived from the experience shared by victims tend to give them a new dimension.

Having understood the travails of trans-border women traders in West Africa, it is pertinent to test the efficacy of the provisions of the ECOWAS protocol on free movement of persons in alleviating problems associated with border commerce. Article 2 (1) of the 1979 protocol grants citizens of the community the freedom of entry and right of residence and establishment in the territory of any member states of choice. The inevitable question bothers on the feasibility of implementation of this protocol and whether trans-border women traders have actually enjoyed these rights at any point in time? The answer to this poser may not be far-fetched. A respondent from Togo reacted to a question related to this by saying:

Anytime I want to come to Nigeria, I always come with my passport. I have a passport, and I pay to get it stamped at every border ports to Nigeria. If I do not have a passport, all I could do is to give bribes to border officials stationed at every entry point to gain access. (*Original interview translated from Pidgin English*)

For most of the women interviewed, the ECOWAS passport makes no difference in assuaging the ill-treatment they get from border officials. They admitted to the fact of their non-possession of ECOWAS passport, which to them would have made no difference in any way in respect of challenges posed by border officials. Self-identification and accessibility at the border ports are, much to the chagrin of concerned persons, determined by payment of illegal charges imposed by the immigration officers and other border officials. In validation of this claim advanced by trans-border women traders, a senior immigration officer fielded questions that inquire his knowledge of the number of citizens of the community who possessed an ECOWAS passport, the officer concerned asserted that:

The ECOWAS protocol in question affords West African citizens the right to free entry into any country within the sub-region. This right is guaranteed once a citizen tenders a valid ECOWAS passport. Immediately that is done, we conduct proper eligibility scrutiny and documentation. The result of the inspection determines whether or not such an individual is worthy of being granted full rights of entry and residence in any West African country as provided for by this protocol.

This response seems to be far from reality. The immigration officer truly understands the contents of the protocol, yet his claim appears to be far from being real. To validate the submissions of the women that acquisition of ECOWAS passport does not guarantee the right to community citizens, an immigration officer demanded the sum of N100 (52 US cents) from the researcher as entry charge. Through observation it was gathered that junior officers in the immigration service detailed to the borders have little or no adequate knowledge and understanding about the ECOWAS protocol on free movement. When such officers were engaged to share their knowledge of this protocol, they could generate scanty information. From the conversations with the trans-border women traders, there was sensational revelation of more of the problems associated with acquiring ECOWAS passport from the immigration offices within the various ECOWAS Member States. They expressed their grouse with the large sum charged for processing this passport. In Nigeria, the fee charged by immigration officers on procurement of passport ranges between N27, 000 and N36, 000. These women decried this exorbitant amount which would otherwise have been invested in their businesses.

Accounts of trans-border women traders at the Nigeria-Benin borders indicate that low capital business women have preference for investing the money charged on passport in their small-scale businesses for expansion purposes and to continue paying the illegal fees demanded by border officials than to get a passport that does not afford them any rights in reality. Traders with high capital base, who could afford the exorbitant ECOWAS passport, with much ease, have likewise attested to the fact that mere possession of these passports scarcely affords any rights or privileges. They are largely obtained for most of their travels outside West Africa and Africa as the case may be. For ECOWAS to build confidence in citizens of the community, the amounts

charged on procurement of ECOWAS passport by Member States should be regulated. For example, it costs no more than \$110 USD and 86 Euros to procure a passport in the United States of America and France respectively. But it costs much more to obtain an international passport in Nigeria and some other West African countries. These countries could also make cross border movement easier for trans-border women traders as well as community citizens within the sub-region through making amendments to provisions of the protocol. Rather than travel documents, presentation of a national identity card to border officials by the individual concerned should be emphasized, like what obtains in the Schengen area in Europe. Currently, as a member of the community, Nigeria is building national data base for all its citizens. This is laudable and should be emulated by other countries within the sub-region in order to eliminate exorbitant charges on ECOWAS passport.

The provisions below afford all ECOWAS citizens to carry out their business in the territory of any member states:

Article 2-4 of the 1990 supplementary protocol defines the right of establishment emphasizing non-discriminatory treatment of nationals and companies of other member states except as justified by exigencies of public order, security or health.

Article 2 of the 1989 supplementary protocol requires states to grant to Community citizens who are nationals of other member states “the right of residence in its territory for the purpose of seeking and carrying out income earning employment” Conditions and entitlements to residence (and thus seeking and carrying out of income earning employment) on possession of an ECOWAS passport.

However, trans-border women traders claimed that they face discrimination in the hands of local officials. Recounting her experience in Togo and Benin Republics, a Nigerian woman, Mrs. Sola Mauton said;

I used to operate a stall at a border market place in Togo but had to shut it down and relocate to Nigeria to extricate myself from discriminatory practices and extortions imposed by local officials and citizens. I faced the same challenge at the Benin border market. Since all my customers are from Nigeria, I have relocated to Badagry market in Lagos, Nigeria. Nevertheless, I do go to Togo to buy goods. (*Original interview translated from Yoruba language*).

A Beninese also has related experiences of cross border business women thus:

When we are transporting goods to Nigeria, customs officers extort money from us. The police officers also extort money from us. The immigration officers collect levies from us at entry points. The problem of the police is that once realize that you are not a Nigerian, they stop your vehicle and collect money from the driver and their own citizens. (*Original interview translated from French language*)

Also, it was gathered from responses of the interviewees that provisions of the protocol as regards trading activities within an ECOWAS Member State exists on the protocol documents rather than being operationalized. Most of the women interviewed claimed that the local officials hide under the pretense that they are doing their job of protecting their territorial integrity and extort them. On extortion, an officer of the Nigerian Police Force has this to say:

We are here to do our job of protecting Nigeria's territorial integrity. And many among the trans-border women traders who attempt to smuggle contraband goods into the country have had to face interceptions from our brave and gallant men. They would confiscate the illegal items and hand them over to the relevant authorities (customs and immigration as the case may be). Those arrested by other officials are handed over to us (police) for prosecution.

When asked if the police extort money from trans-border women traders, another police officer responded thus: "We do no such thing as extort money from them even when they attempt to offer us bribe. We are ready to make arrest and prosecute any officer found guilty of this crime."

This officer's statement seems far from the truth. It is no news that border police are corrupt. Besides the claims by the trans-border women traders concerning the police and field observations showed that all the police check-points are points of extortions. Before a driver, conveying traders and their goods to their destinations, arrives a police check-point, they would have selected the money they would give the police and custom officers. The women claimed the drivers would have charged them the money to give the police and custom officers before leaving their respective places. This happens in most of the West African countries but is more severe in Nigeria.

From the arguments so far, it has been established that the provisions of the ECOWAS protocol on free movement of persons and establishment only exist on documents. It has not been fully implemented by Member States of the community. There are more restrictions on the movement of people within West Africa to the provisions of this protocol. One of the problems facing the operationalization of this protocol has been discovered in the course of this study to be largely ignorance by border officials in the sub-region about of its existence and inadequate education on the provisions of this protocol.

## **Conclusion**

There is no doubt that the teeming population of trans-border women traders in West Africa has been neglected or gone unnoticed. Particularly, trans-border women traders at the Nigeria-Benin border face enormous challenges in their efforts to do business and trade in the sub-region. In spite of the ECOWAS protocol on free movement, their rights in the sub-region have frequently being infringed upon by border officers, thereby making the protocol unpopular and ECOWAS itself impotent. Other regional and sub-regional frameworks such as the EU have eradicated the challenges to free movement within their zone. This implies the credibility of ECOWAS to properly integrate the sub-region for development and for the benefit of its teeming women population is under scrutiny.

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## **Interviews**

Interviews conducted at the Nigerian Immigration Service, Seme border Lagos and Idiroko border, Ogun state, Nigeria.

Interviews conducted at the Nigerian Customs Service, Seme border Lagos and Idiroko border, Ogun state, Nigeria.

Interviews conducted with border patrol officers of the Nigerian Police Force, Seme border Lagos and Idiroko border, Ogun state, Nigeria.

Interviews conducted with 15 Border women traders at Seme border Lagos and Idiroko border, Ogun state, Nigeria.