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THE ROLE OF DIPLOMACY IN DEALING WITH MIGRATION IN THE SOUTHERN AFRICAN REGION

by

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ABSTRACT

Migration significantly affects politics in ways that transcend domestic policymaking, such as in the field of international diplomacy, or the manner in which nations negotiate and manage their affairs with one another and with other actors such as international and non-governmental organisations. Evidence implies that free movement exists to some degree in SADC. On paper, people from SADC member states can relatively freely travel within the region without any stringent visa requirements. However, agreements that are signed and the reality at border posts vary significantly. Moreover, the circular migration patterns in the SADC region demand, robust diplomatic actions, common strategies for resilience and the responsiveness of governments in the region. This study provides a comparative overview of state centrism (realism) and non-state centrism (liberalism) while paying attention to migration management and flow as expressed by state and non-state actors. Even with the rising interest in the involvement of non-state actors in migration governance and the collaboration that ensues, the literature available on their involvement in regional migration governance and their co-existence with states is still limited. The arguments and analysis presented in this study seek to address this gap. It adds to the body of literature by evaluating the dynamics, the network of interconnections, and underlying interests driving actors in migration policy processes. It also explores how the state and non-state actors engage to achieve respective policy objectives, which may be consistent or contradictory depending on the underlying interests.

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LIST OF ABBREVIATIONS

COMESA	Common Market for Eastern and Southern Africa
CoRMSA	Consortium of Refugees and Migrants South Africa
CPLO	Catholic Parliamentary Liaison Office
DHA	Department of Home Affairs
ILO	Protection Working Group
IOC	Indian Ocean Commission
IOM	International Organization for Migrants
LCCL	Leadership Conference of Consecrated Life
MIDSA	Migration Dialogue for Southern Africa
MSF	Doctors without Boarder
PWO	South African Police Service
SACBC	Southern African Catholic Bishops' Conference
SADC	Southern Africa Development Community
SADCC	Southern African Development Co-ordination Conference
SADC-RMN	SADC Regional Migrants Network
SAPS	South African Police Service
SIHMA	Scalabrini Institute for Human Mobility in Africa
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime

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Chapter One

Introduction, Background and Research Details

1.1. Introduction

Southern Africa has had a lengthy history of intra-regional migration since the mid-nineteenth century (Crush et al., 2006; Nshimbi & Fioramonti 2014; Wentzel & Tlabela's, 2006). In the recent two decades, however, entrenched migratory patterns have undergone significant changes (Crush et al., 2005: 1). There are a number of broader changes that include but are not limited to South Africa's integration with the SADC region which has led to a significant increase in both documented and undocumented cross-border movements, along with new types of mobility. Formerly known as the Southern African Development Co-ordination Conference (SADCC), the Southern Africa Development Community (SADC) formally came into place in 1992. At the core of its establishment are ideals that govern its established objectives on collective self-reliance, common political values, systems and institutions, harmonisation and rationalisation between member states as well as consolidation of historical, social and cultural affinities (Williams, 2010: 61). Thus, as a regional watchdog, SADC member states formulated and developed various protocols on trade, migration, tourism, education amongst others which all enhanced regional economic co-operation (Williams, 2010: 63).

Furthermore, globalisation as several scholars have shown has far-reaching implications for people's mobility in general, curtailed by an increased movement of capital and goods between SADC member states. The reconnection of the region to the world economy has led to it becoming more susceptible to the types of migration typically associated with globalisation like labour migration, and economic migration, including formal and informal cross-border traders amongst others (Crush & McDonald, 2002; Crush et al., 2005: 1; Stalker, 2000; Koser & Salt, 1997). In the same vein, streams of migration could not stand immune to such flows and exchanges and the irresistible force of globalisation leading to

rising scales of different forms of movement. Such changes have fueled the shift towards increased intra-regional mobility thus, Southern Africa today is regarded as a region on the move (McDonald, 2000). Recognizing the significance of free movement for the regional bloc's development and integration, member states convened in Harare in 1993, by having a SADC workshop on the free movement of people. The SADC Ministerial meeting that was held in Eswatini the next year, resulted in the appointment of a team tasked with preparing a SADC Protocol on Free Movement (Williams, 2010: 63). The team subsequently developed the Draft Protocol on the Free Movement of Persons, which recommended a step by step approach to allow for the free movement of persons within the region (Mudungwe, 2015: 14). It is the basis of this backdrop that the proceeding research is focused on. The proceeding chapter thus presents the background of the study followed by briefs on various research details that guide and informs the feasibility of this study.

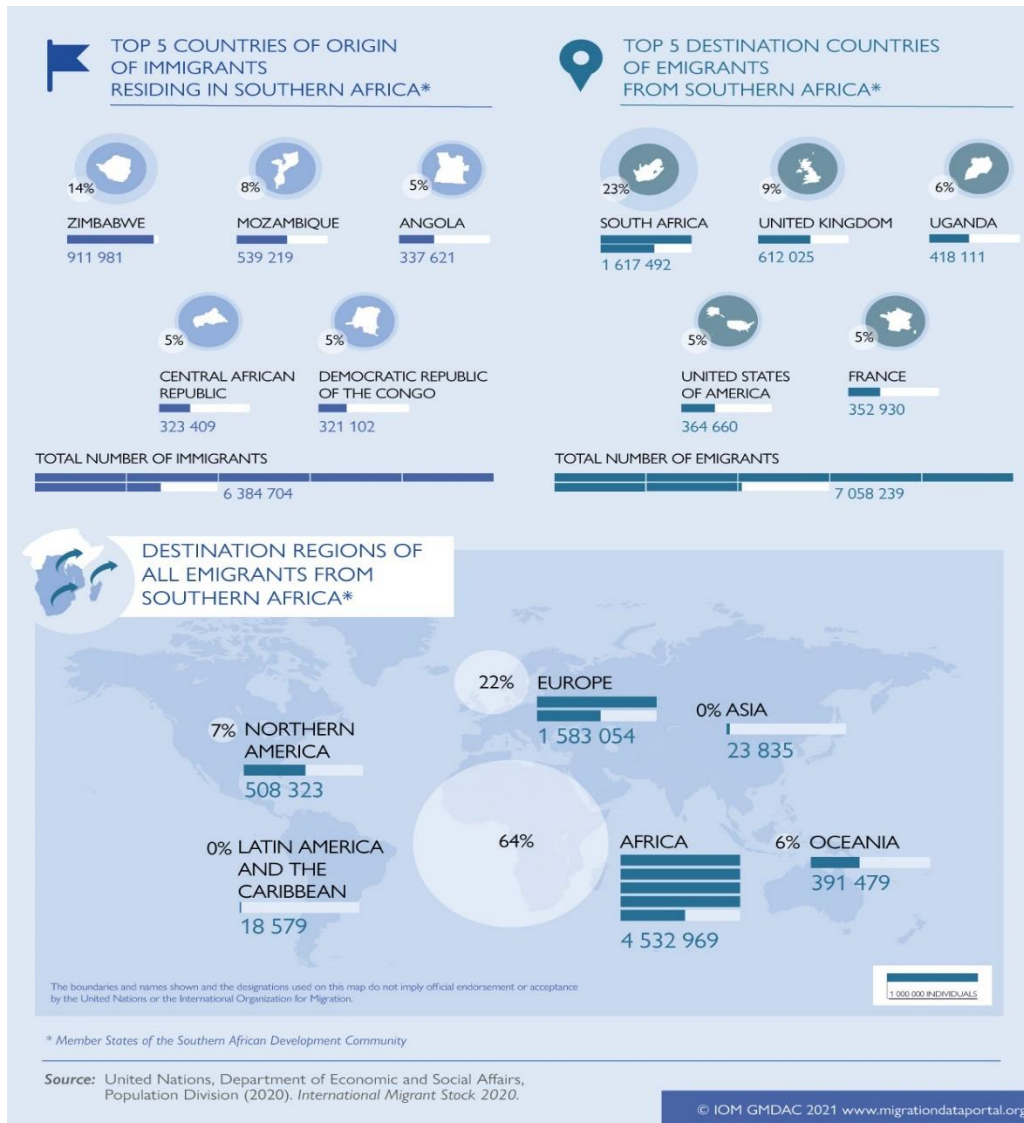
1.2. Background of the study

As a very porous region, Southern Africa experiences significant amounts of cross-border movements and which have political and economic consequences (Nshimbi & Fioramonti, 2013). Intra-regional migration is characterised by, among others, cross-border informality as regional migration in Southern Africa occurs frequently in an informal and undocumented manner (Nshimbi et al, 2020). The underlying features of globalisation bring out the idea that free movement of people is balanced against political as well as economic interests of states. Unavoidably, diplomacy as a tool for foreign engagement is thus utilised to achieve the interests and goals of diplomatic actors (Mahler, 2000: 198). It is however important to note that over the years, diplomacy has ceased to be the preserve of nation-states, but also encompasses efforts by non-state actors working to promote development, improved human mobility, and regional integration in Southern Africa (Mahler, 2000: 199). Within the SADC region, migration has been prevalent long before the formation of the regional body in 1992. The region received migrants since the mid-nineteenth century an example being the various migrants that came to work in the various mines in South Africa such as the Kimberly diamond mines. The disparities in development among Southern Africa's neighbouring countries have resulted in the more

affluent states such as South Africa, Botswana, and Namibia attracting several migrants who are determined to move through nation-state borders for different motives (Nshimbi & Fioramonti, 2013). As the regional economic hub, South Africa has become the most sought-after migrant destination (Nshimbi & Moyo, 2017: 5). In the inner city of Johannesburg for instance, there has been significant growth in the number of black immigrant entrepreneurs from all around the SADC region. Several of these business owners operate informal businesses in other various SADC countries, not just in South Africa, where they move between regularly to manage and restock their operations (Moyo, 2014: 262). This, therefore, results in them negotiating the migratory legislative framework, as well as excise and customs policies (Crush et al, 2005: 32).

Cross-border migration in the SADC region is both a historic and contemporary phenomenon that directly affects most, if not all, SADC member states, some mainly as sending states and others mainly as receiving states (Williams, 2010: 66). In Southern Africa, migration between countries is mainly influenced by economic opportunities, political instability as well as environmental hazards (Migration Data Portal, 2021). According to UN DESA (2020), in the SADC region, an estimated 6.4 million people are international migrants out of an estimate population of 363.2 million people. Mining and industrial developments in South Africa, Botswana, and Zambia as well as oil in Angola mainly attract both skilled and unskilled migrants in Southern Africa. South Africa has been estimated to have 2.9 million migrants in 2020 due to the fact that it is the most industrialized economy in Southern Africa (Migration Data Portal, 2020). The figure below demonstrates some of the basic statistics and patterns of migration in the region.

Figure 1: Understanding migration in Southern Africa



Source: Migration Data Portal, 2021

The Southern African region experiences all types of movements, and mobility has always been a prominent and defining element of the region's economy, politics, and culture (Nshimbi & Fioramonti, 2014; McDonald, 2000; Nshimbi & Moyo, 2017; Nshimbi & Fioramonti, 2013; Moyo, 2017). Even though international migration is not a new phenomenon, it has only lately become acknowledged as a fundamental international issue that necessitates a discourse on the role of international cooperation (Betts 2011; Ghosh 2000; Hansen 2008; Koslowksi 2009; Martin et al., 2006).

1.3. Problem Statement

There is a prominent need for the establishment of an active regional mechanism that effectively manages as well as regulates migration in Southern Africa. This will continue to be difficult to be achieved as it has proved to be over the years if member states constantly prioritise domestic policies above all else when dealing with regional issues like migration. Rather establishing improved joint and collaborative initiatives (both bilateral and/or multilateral agreements) can potentially provide the much needed resolves to regional migration complexities. As witnessed over the years, the institutional arrangement(s) within the Southern African region on cross-border migration inevitably creates a dilemma of jurisdiction. Resultant of this dilemma, diplomatic actors thus inadvertently engage in a tug-of-war given that there are no formal institutional arrangements with an officially established mandate and capacity to deal with the management and regulation of migration. Thus, the SADC region is fragmented when it comes to regional migration. Notably, each member state pays homage to their respective sovereign interests and is seemingly more occupied with managing migration at the national rather than regional level. This, therefore, suggests the lack of legally binding and enforceable laws or regional regulation parameters to effectively deal with challenges and short-comings of regional migration. Resultantly, this becomes problematic in contemporary migration given that challenges and problems affecting the migrating population transcend beyond national boundaries or jurisdictions as it assumes a transnational nature which requires a robust regional mechanism suited to provide regional solutions and regulations. Moreover, the existing system of formal international diplomacy, according to Ross (2011) is no longer viable or appropriate. It lacks openness and inclusivity of those who are primarily affected by the decisions made. Indeed, migration affects and often structures diplomacy, and as argued by Mahler (2000: 198-199) diplomacy and diplomatic relations are often influenced by both state and non-state actors. This research will concentrate on the issue of migration from a diplomatic perspective. Therefore, it focuses on contrasting what is happening formally with what is happening informally, intending to determine the degree of formality versus informality in dealing with regional migration in Southern Africa. It is against this backdrop this

research's objective, the significance of the study as well as research questions are crafted.

Therefore, the primary research question is:

Do state-centric approaches (realism) co-exist with non-state-centric approaches (liberalism) in dealing with regional migration issues in the SADC region? If so, to what extent?

Sub-questions are as follows:

- a) How do official state actors deal with regional migration in Southern Africa?
- b) To what extent are non-state actors dealing with regional migration issues?

1.4 Aims and Objectives

This research aims to examine the extent to which diplomacy is focusing on migration and particularly understanding how much of it is carried out and controlled by states and how much of it is left to or carried out through informal systems (non-state actors). It contrasts the management of migration by states and non-state actors in order to find out the extent to which a state-centric dynamic co-exists with a non-state-centric dynamic in the management of regional migration in SADC.

The objectives of this study are identified as follows:

- To assess the degree of co-existence between state and non-state actors in dealing with migration in the region .
- To investigate if and how state diplomatic actors deal with regional migration in Southern Africa.
- To understand the extent to which extent are non-state actors dealing with regional migration issues.

1.5. Rationality and significance of the Study

The rising scales and scope of migration in the region have caused considerable tensions and conflict, particularly in countries like South Africa considering how its advanced economic development among other SADC members has become a source of attraction over the years (Nshimbi & Moyo, 2017: 5). Recurrent cases of xenophobia including recent and on-going citizens movements like Operation Dudula among others has seen citizens taking the law into their hands and condemn the government for its ineffectiveness in their regulatory mandate on migrants, particularly undocumented migrants. Moreover, investigating the work of official diplomatic actors will potentially reveal the regional migration issues that are not covered by state actors. This is crucial as it will ultimately lead to the work of informal systems and therefore enhance understanding of how these are dealing with the migration issue. The lack of extensive research in this aspect also builds the significance of this study as it seeks to fill in the gap in the existing literature. This study, therefore, seeks to foster an understanding that will help policy makers and decision-makers navigate the complexities of regional migration. It is against this backdrop that the rationality and significance of this study are built upon.

1.6. Research Methodology: Research Approach, Data Collection, Analysis, and Interpretation

This study aims to investigate and understand the complex interplay of migration and diplomacy within the SADC region, including the role(s) carried out by states and non-state actors with the aim of providing a better understanding of this subject matter. It contrasts the theories of realism and liberalism in order to find out the extent to which a state-centric dynamic (realism) co-exists with a non-state-centric dynamic (liberalism) in the management of regional migration in SADC. This, therefore, has great potential to aid in the establishment of effective intervention mechanisms at the regional level. The methodology components covered in this section include the research approach, the data collection techniques, data analysis and ethical considerations.

Qualitative research is aimed towards gaining a more in-depth and comprehensive grasp of how certain social phenomena are carried out in their various contexts (Creswell, 2003: 187). This study lends itself into a qualitative study because it seeks to provide an in-depth exploration of the extent to which diplomacy is playing a role in addressing regional migration issues in Southern Africa, by highlighting what is happening formally versus informally. Manson (2002: 1) explains how a qualitative study design has flexibility as there is no specific set structure. This will be useful in this study because it means that open-ended methods can be employed in the collection of information, thus probing a deeper understanding of the subject matter. This also helps investigate the how, what, and why of the research questions and objectives. Unlike quantitative research, qualitative research approaches as explained by Mason (2002: 1) embrace the subject matter being investigated in its entirety. As a result, it embraces the complex and diverse elements that exist alongside human phenomena in order to generate a deeper understanding of the nature of the factors that impact such phenomena. As opposed to quantitative studies, which attempt to comprehend an artefact outside of its context, qualitative research investigates the contents of a phenomenon's context for the sake of presenting a more thorough picture (Babbie & Mouton, 2001: 270). The researcher found that the study is consistent with the qualities of qualitative research as it aims to gain an in-depth understanding of the subject matter by mapping out formal and informal networks for migration governance in the SADC region through extensive web research.

This study draws from existing literature, also described as desktop research since it includes the analysis of credible internet-based information (Kumar, 2011). An ongoing process that involves the collection and review of the data presented by these sources will be employed. Secondary research is useful because it enables the extraction of descriptive (current and historical) and narrative information (McCombes, 2019). The secondary data sources to be used in the study will comprise both published and unpublished materials, such as reports, and journal articles written by scholars on the subject matter. Additionally, existing research comprising interviews conducted by other scholars, including organisational and institutional publications on the conventional and unconventional diplomatic acts and experiences of diplomatic actors within the SADC

region will be employed. As such, to capture a detailed exposition, the researcher uses social artefacts (policy documents, white papers, government documents, publications, newspapers, books, journals, internet sources, magazines, reports, and blogs amongst others) as a tool to collect relevant data considering the fact that social artefacts reshape as well as impact perceptions (Babbie & Mouton, 2001: 267). The diversity of these social artefacts will thus help to make informed conclusions and collective overviews on the subject matter of this study.

Another crucial source for data collection in this study entails the work and data provided by migration associations, including but not limited to organisations such as the SADC Regional Migrants Network (SADC-RMN) which is available through the Consortium of Refugees and Migrants South Africa (CoRMSA). This will potentially provide accessibility to their migrant-led associations or organisations. The International Organization for Migration (IOM) is another crucial data collection source as they have undertaken and published extensive work in the field and work closely with formal and informal diplomatic actors in the SADC region. Particularly migrants and non-governmental partners to advance the knowledge and understanding of migration issues including the influence these actors have towards diplomacy. Other cited non-state organisations include the Catholic Church, the United Nations High Commissioner for Refugees (UNHCR) and the International Labour Organization (ILO) among others.

According to Yin (2003: 109), data analysis is concerned with reviewing, categorising, and testing information gathered from data sources in order to address a study's proposition. Furthermore, data analysis entails a continuous reflection on the data collected and the posing of analytical questions about it (Creswell, 2003:190) For the analysis and interpretation of the collected data, document analysis and the hermeneutical analysis will be utilised as they are qualitative data analysis tools used to examine texts in the process of obtaining a coherent explanation of social context. This is particularly useful in this study as these data analysis tools allow the interpretation of a text or artefact from multiple perspectives (Byrne, 1996). The paradigm used to interpret the data is interpretivism as the researcher will seek to interpret the associated meaning

from these various sources. It also discusses a few theoretical underpinnings of realism and liberalism which will be used to analyse and interpret the data presented in this study.

1.6.1. Ethical Considerations

Where ethics is concerned, this study will be conducted in accordance with the University of Pretoria's ethical research guidelines. Commitments will be made to ensure that it maintains anti-plagiarism policies and will not employ any research elements that may result in ethical implications on the university's research ethics policy.

1.7. Research outline

Chapter 1 covers the introduction, background of the study and presents research details, chapter 2 covers the conceptualisation of terms and theoretical framework. Chapter 3 provides a critical assessment and exposition of state centrism in relation to migration governance in the Southern Africa region. While chapter 4 is dedicated to giving a critical assessment and exposition of non-state centrism in relation to migration dynamics in the region. Chapter 5 presents a summary of the research findings, conclusions, and recommendations.

Chapter Two

Literature Review: Conceptual clarification and Theoretical Framework

2.1 Introduction

The phenomenon and dynamics of migration in recent decades have been heightened by the increased interconnectedness underlined by the increase of global flows of humans, goods, and capital due to globalisation. This has ultimately led to the world witnessing heightened or different forms of migration related challenges for both states and migrants themselves for example. Therefore, the various pressures that affect migration have prompted governments in their official diplomatic capacities to regulate migration at regional and global levels. In the wave of increased flows and movement of people, the SADC region has witnessed rising migration related tensions and complexities including but not limited to xenophobic attacks, undocumented migration, and international human trafficking over the years (Mudungwe, 2015; Dodson & Crush, 2015; Abebe, 2019). Thus, diplomacy as an art is used as a tool by most actors to navigate diverging and complicated complexities of migration. In most cases, these diverging and complicated complexities are by-products of differing interests and capacities of the different actors involved. Notably, the African continent and the SADC region in particular have not been immune to these notions and variations of migration and its unwanted negative connotation thereto. Nonetheless, this chapter is dedicated to discussing migration and diplomacy in the SADC region by reviewing existing literature. It begins by conceptualising important concepts for clarity purposes and then discusses a few theoretical underpinnings of realism and liberalism which will be used to analyse and interpret the data presented in chapters 3 and 4 respectively.

2.2 Defining Key Concepts

In this section, key terms are conceptualised for clarity purposes. The terms diplomacy and migration including related terms are defined leading to the conceptualisation of migration diplomacy.

2.2.1 Diplomacy

Diplomacy has its roots ingrained in ancient history as diverse tribes employed messengers and envoys to deal with issues of mutual interest (De Magalhaes, 1988: 1-5). Diplomacy is the conduct of international relations by negotiation and dialogue or by any other means in a bid to promote peaceful relations among countries. It can also be defined as a set of practices, institutions as well as discourses that are important for understanding the historical evolution of international systems and their changing functional and normative needs (Carnage, 2008: 575). Kenyaggia (2016: 8) defines it as the means through which a state's interests are promoted in the international forum, either bilaterally or multilaterally, using dialogue, cooperation, and negotiation with other countries. In this study, diplomacy is defined as the “means by which states through their formal and other representatives, as well as other actors, articulate, coordinate and secure particular or wider interests, using correspondence, private talks, exchanges of view, lobbying, visits, threats, and other related activities” (Barston, 2019: 1). It entails the management of relations between states as well as between states and non-state actors, and it also allows states to attain their foreign policy (FP) goals without relying on propaganda or force (Berridge, 2002: 1). This study distinguishes and focuses on the concepts of formal/state diplomacy and informal/non-state diplomacy.

2.2.1.1 Formal/state diplomacy

Formal diplomacy in this study refers to what is generally understood as traditional diplomacy. Traditional diplomacy has a long history, dating back to 2500 BC and Ancient Greece (Kenyaggia, 2016: 9). This diplomacy was characterised by exclusivity, secrecy, elitism, and was state-centric in nature, diplomatic ties were typically bilateral and dealt with economy, borders, and conflict issues (Kenyaggia, 2016: 23). It is the form of

diplomacy that transpires through a controlled process, in a structured environment and normally takes place behind closed doors (Kenyaggia, 2016: 9). However, when it failed to avert World War I, both its role and its form in international relations were heavily criticised (Baylis & Smith, 2001: 321). Formal diplomacy is characterised by its disregard for a diversity of diplomatic actors, which may be explained by the portrayal of non-state actors as problematic when they disagree with statist international relations thinking. It argues that the public nature of International Governmental Organisations (IGO) and NGO meetings, for example, diverts attention and takes time away from the task of real negotiations (Zondi, 2016: 29).

2.2.1.2. Informal/non-state diplomacy

Designated state diplomats are typically the ones tasked with negotiating and executing international accords. International migration, in this view, falls within the jurisdiction of diplomacy and can lead to diplomatic catastrophes, but it is rarely seen as constitutive of diplomatic relations. Those who cross international borders, such as transnational migrants, informal traders, exchange students, tourists, and others, are not considered active participants who affect diplomatic processes. Nonetheless, there is substantial evidence that such transnational actors both establish and influence state relations (Mahler, 2000: 198-199). Signitzer and Coombs (1992: 138-139) explain how informal diplomacy is broadening the scope of traditional diplomatic activities: from high politics on the wide range of issues and elements of daily life, and from the confined sphere of diplomats and governments to the involvement of new actors including institutions, individuals, and groups, that are joining and participating in international and intercultural communication activities and have an influence on the political relations among states. Diplomacy has historically been recognised as a tool for shaping, advising, and implementing FP with the state as the single significant actor (Kissinger, 1994). However, in recent decades, there has been a shift from "old" to "new" diplomacy. The conventional meaning of diplomacy has been expanded to not only encompass a broader range of thematic areas such as development diplomacy, cultural diplomacy, and public diplomacy amongst others but also a diverse spectrum of actors engaged in diplomacy (Barston, 2019: 1). Non-state actors, such as NGOs of all kinds, businesses, philanthropists,

international movements, and others are usually cited in the literature on contemporary diplomacy as a significant distinguishing feature of modern diplomacy (Barston, 2019: 5; Murray, 2008). As will be noted in the following chapters, this study covers both formal and informal diplomacy.

2.2.2 Migration

According to Wohlfeld (2014: 62) migration can essentially be described as the movement of individuals from one area to another. It is worth noting that migration is broadly understood. This study adopts the International Organization for Migration's (IOM) comprehensive definition and identifies it as the movement of an individual or a group within a state or across a foreign border. It is human movement encompassing any form of mobility, regardless of composition, duration, or triggers (IOM, 2022).

The history and development of humans are underpinned by migration. The movement of people within and across countries is a crucial factor driving societal changes. Migration is influenced by a combination of factors either in the country of origin (push factors) or in the destination country (pull factors). Push and pull factors can be cultural, environmental, political, and economically based (Krishnakumar & Indumathi, 2014: 8). Push factors can be understood as the negative aspects of the country of origin that drive people out of their home country, pull factors are the positive aspects of the destination country that attract or encourage people to move there in search of a better life (Parkins, 2010: 6). Push factors include economic and non-economic factors. Examples of economic factors include unemployment, low wages, and non-economic factors can include political instability, high crime rates, poor educational facilities, and others. Pull factors also include but are not limited to economic and non-economic factors. Labour recruitment, employment opportunities, and stable economic conditions are a few examples of economic factors, whilst non-economic factors include reuniting with family, safe physical and political environments amongst others (Tataru, 2019: 15). The process of migration begins in a sending state (country of origin) and ends in a receiving state (country of destination). Migration has various types, however, there is no consensus among scholars about migration typologies. There is an important contrast made in this study

between regular and irregular migration. The former entails a person's movement after obtaining the necessary documentation and approval and using formal ports of entry of the destination country (Abebe, 2019: 3). The latter, which is largely where informal diplomatic activity takes place within SADC, is regarded as the movement that occurs outside of the sending, transit, and receiving countries' regulatory or legal norms (Molenaar, 2017: 3). Undoubtedly, cross-border movement can promote national interests through the roles it plays in international relations, these roles can be orchestrated by countries or, in certain cases, by migrants themselves. Moreover, in some instances, the cumulative implications of migrants promoting their own interests in groups or individually affects the sending and receiving state's political, economic, and/or social circumstances, to the point that governments are prompted to renegotiate their international relations (Mahler, 2000: 198; Sherri & Pessar, 1991; Glick-Schiller 1999). It is also crucial for this study to make a distinction between emigration, immigration, and transit states. Emigration is described from the viewpoint of the state of departure as "the act of moving from one's country of nationality or usual residence to another country so that the country of destination effectively becomes his or her new country of usual residence" (IOM, 2022). Immigration is described from the viewpoint of the arrival state as "the act of moving into a country other than one's country of nationality or usual residence so that the country of destination effectively becomes his or her new country of usual residence" (IOM, 2022). Lastly, a transit state is a state "through which a person or a group of persons pass on any journey to the country of destination or from the country of destination to the country of origin or of habitual residence" (IOM, 2022).

Furthermore, migration may take several forms; it can occur internally (within a state) or externally (across an international border). While internal migration is the change of residence within a country i.e. cities or provinces, external migration involves the change of residence across international boundaries. Internal migration can be due to the socio-economic spatial situation within a country and external migration is mainly a result of favourable international socio-economic and political conditions (Bhende & Kanitkar, 2006; Pencea & Curteanu, 2020). This study's area of interest is international migration, described as people's movement away from their states of origin, crossing an international border into a state where they are not citizens (Rudolph, 2003: 605). This

study places particular focus on intra-regional migration which is described by Mudungwe (2015: 53) as the process of establishing a region without internal boundaries as a way of allowing the citizens of all member states the freedom to live and move without any hindrances within the regional bloc. As the region continuously works towards realising the goals of free trade, the free flow of capital and goods, and essentially economic integration, migration, and more specifically, the free movement of people within the regional bloc repeatedly comes to the fore (Dodson & Crush, 2015: 6). Although intra-regional migration is complex in nature this study analyses and understands it from a free movement perspective which is mainly rooted in the SADC Draft Protocol on the Facilitation of Movement of Persons. Which was established to facilitate the unrestricted movement of people inside the Southern Africa regional bloc. Intra-SADC migration is understood by the Draft Protocol as the removal of barriers to the free movement of people from the SADC region into and within the borders of all SADC countries (SADC Secretariate, 2005: 3).

2.2.3. Migration Diplomacy

The concept of 'migration diplomacy' best captures the scope of this research. In as much as states diplomatically engage in spheres of war and peace, human rights, culture, trade, the environment, and economics, migration in the contemporary world carries equal weight. As such, it has over the years increasingly become a vital area for states' bilateral and multilateral diplomatic relations (Adamson & Tsourapas, 2019). More so, the increasing scales of state-diaspora relations as well as diasporic activism compel engagements in diplomacy and foreign policy.

Therefore, this study adopts Adamson & Tsourapas's (2019) definition of migration diplomacy which entails "the use of diplomatic tools, processes, and procedures to manage cross-border population mobility". Thus, in other another sense, migration diplomacy can be best understood as "state actions and investigations of the link between cross-border mobility and diplomatic aims" (Tsourapas, 2017). The term can be understood in this context as how SADC countries use diplomatic means to obtain goals and aims relating to regional population mobility (Oyen, 2015). Negotiation is a key

component of diplomacy, and migration diplomacy concentrates on how different diplomatic actors utilise cross-border population mobility management in their regional relations. Thus, migration diplomacy can entail strategically using migration flows in a bid to achieve other aims or the utilisation of diplomatic methods or tools to attain set goals and objectives related to migration (Greenhill, 2003; 2010).

The globe has seen several advances and changes in the way international affairs are handled. Amid such changes, less emphasis has been placed on some of the various ways that population mobility is affecting the way politics is conducted in the twenty-first century, especially in the areas of interstate relations and diplomacy (Adamson & Tsourapas, 2019: 114). As pointed out by Hollifield (2004), the modern state is a 'migration state', where efficient and effective migration flow management has become a fundamental component of a nation's functions and interests. Increased flows of migration across state borders influence how countries interact diplomatically with other actors in the international system and therefore become a crucial subject of interstate diplomacy. Although this is not a completely new phenomenon, both scholars and practitioners have invested relatively little detailed attention to it (Adamson & Tsourapas, 2019). Contemporary migration management operates similarly to how it has in the past, given that it is significantly influenced by the interests of established power relations amongst nations. As an indicator of a state's power and interests, however, a state's place in the web of international migratory flows is becoming just as crucial as military and economic indicators. Whether a state is a migration-sending, migration-receiving, or transit state, that is, whether its primary concerns are with regard to *immigration, emigration, or transit* migration, determines its interests and bargaining position in relation to other states. It should be made clear that these are ideal kinds and that in some bilateral interactions, a state may concurrently occupy the positions of being a migration-receiving sending state while also occupying the position of being a sending or transit state in others (Adamson & Tsourapas, 2019: 118 - 119). Receiving states are focused primarily on the dynamics of immigration and managing population influx. Beyond immigration diplomacy and receiving states, sending states make up the second category of actors involved in migration diplomacy and these countries are particularly interested in the fundamentals of emigration, or the outflow of migrants (Esses et al, 2017).

Emigration diplomacy can be recognised in a variety of sending countries' policies, both in the present and in the past. Practices of emigration diplomacy are frequently seen in countries of the Global South (Tsourapas, 2015: 192). Lastly, transit states are third states that are neither the countries of origin nor the countries of destination and due to their geopolitical positioning along a migrant route, these states are usually able to participate in transit migration diplomacy.

Numerous policies have been developed by states in a variety of sectors with the aim of responding to and regulating different types of human migration and mobility, including voluntary and involuntary alike. States equally make an effort to regulate the domestic effects of migration, paying close attention to how population mobility affects the country at different levels including at security, economics, politics, and sociocultural levels (Brubaker, 1989; Passaris, 1989; Levitt, 1998; Adamson, 2006). Even so, it is crucial to define the parameters of migratory diplomacy and be explicit about both what it encompasses and what it does not. Migration diplomacy does not necessarily include all efforts to manage migrant flows, nor should it encompass all matters relating to migration and migrant issues. Additionally, it should be emphasised that every state's capacity to successfully deploy diplomatic tools and methods in accordance with migration processes depends on a variety of other elements, including its overall power and the availability of resources.

2.3. Theoretical Framework

In recent decades, the world has witnessed an increase in global migration and its relative challenges, and the Southern African region has not been exempted from this. Thus, to make sense of some of the trends and patterns and in an effort to better understand how formal and informal diplomacy is implemented in dealing with migration in the region, some theoretical underpinnings of realism and liberalism are employed.

2.3.1. Realism

Realism is regarded as one of the most dominant schools of thought within the field of international relations. The approach adopts the idea that in the pursuit of wealth and power, diplomacy is essential to deal with the unavoidable conflict and tensions that arise when different actors pursue their own interests. The theory posits that human behaviour is best understood as 'rational' in nature as both the individual and the state makes rational decisions or choices since they are self-interest-centred (Williams, 2008:17). Mainly because of this argument, the theory thus sees the world as being in a constant state of anarchy. Thus, ideals that guide the theoretical foundations of realism include but are not limited to state-centrism (states as main actors in the international system), anarchy (no supranational authority to enforce rules), power (self-preservation), and egoism/rationality (rational self-interests) in the international system (Morgenthau, 1947; Slaughter, 1995; Hobbes, 1651). The parameters of realism are thus critical to understanding the manner in which official diplomatic actors in the SADC region handle or behave toward issues of regional migration in Southern Africa.

In view of diplomacy, migration, and realism, Faure (2018) postulates that the global migration governance is highly fragmented given that it is impeded by the nation-state-centred structure of the international system. Such an allusion is essential to assess if these arguments are applicable to the SADC region and its migration complexities. The phenomenology of power which forms part of realism will be juxtaposed with SADC states as official diplomatic actors, to show how this has affected the efficacy of regional migration governance initiatives such as the SADC Protocol on the Facilitation of Movement. In view of Hans Morgenthau's analysis that 'power is aimed at detecting political phenomena rather than helping to deal with the problems (Morgenthau, 1947; Morgenthau, 1985; Guilhot, 2011). Thus, the assumptions of realism on official state actors and migration are relevant in explaining the dynamics of the migration regime in the SADC region.

Although non-state actors have been and continue to do significant work relating to migration and diplomacy within the region, the state is still regarded as a central actor in the SADC region with the sovereign authority to sign binding agreements, and this as explained above, links to realist thinking. The variation of the natural state of anarchy and politics in relation to migration is thus interpreted in the dimension of push and pull factors as well as the lack of an overarching authority in the region to enforce migratory agreements or regulations on a regional level. Another variation of realism on migration will be deduced from the aspect of 'self-interest among official state diplomatic actors' in the SADC region.

As one of the main branches of realism, classical realism submits that governance of migration (regional or global level) is ruled by the state's balance of power. Defined by Diez et al. (2010:61) as "a mechanism which operates to prevent the dominance of any one state in the international system". As literature in the past has revealed, efforts for unified enforcement and effective collaboration on migration issues are fragmented. Scholars like Kellow (2012) believe that such is unavoidable. Thus, drawing from the realist school of thought, the research uses its ideals to identify how the interests, as well as the power of diplomatic actors (especially formal diplomatic actors) within the SADC region, are affected by their position in migration systems including migration structures as migration-sending, migration-receiving or transit states. Using specific context-based data and applying the realist arguments, the research unpacks how specific migration issues within the SADC region are connected to or with other areas of state interest (security interests, economic interests, and others) and how diplomacy as a foreign policy tool is used to deal with these.

2.3.2. Liberalism

Diez et al. (2010:24) explains how conflict ceased to be a distinguishing feature of the international system by the 1980s. Thus, as states began pursuing shared interests, cooperation became an increasingly essential component of international relations. Classical liberalism is a moral or political philosophy founded on the principles of individualism, equality, individual freedom, peace, and liberty to mention a few (Burchill,

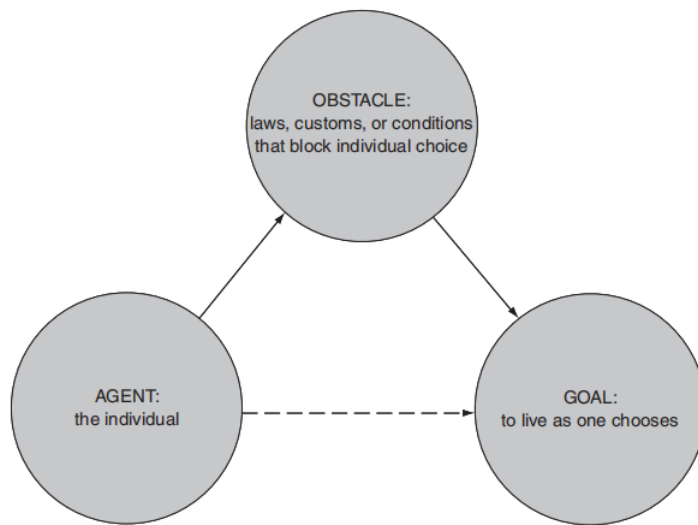
2005:55; Chau, 2009:2; Diez et al. 2010: 23-24. Liberal institutionalism upholds these principles and adds that institutions play a crucial role in international affairs. Liberal institutionalists contend that institutions promote interstate communication and cooperation in this regard (Keohane, 2018:2). Institutions can be understood as a set of guidelines outlining how states should cooperate and in other cases compete with one another (Mearsheimer 1995:8). The key ideas in accordance to this study which support liberal thought are further explained below.

Liberals claim that institutions promote effective international cooperation and develops mutual trust between states (Navari, 2008:41). Moreover, institutions can offer common ground for interaction between international actors to foster cooperation. States that have common interests are therefore more inclined to promote sustained cooperation (Keohane, 1984:43). Although with varying degrees of success within the region, organisations like NGOs, and CSOs amongst others work towards facilitating state cooperation through shared interests that prioritise migrants' well-being. Furthermore, Keohane (2018:11) explains that cooperation does not automatically lead to harmony, and also emphasizes that because cooperation is a political process, where influence is gained through interdependence and persuasion and therefore requires planning and diplomacy. Examples of cooperative measures for liberals include multilateral diplomacy, international law, and human-centric security strategies (Dorussen & Ward 2008:190). In the Southern African region, for example, informal diplomatic actors engage in regional migration governance by cooperating among themselves and with state actors to attain their set objectives which are usually more migrant-centred as opposed to being state-centred (Alejo, 2020).

Bell (2014: 694) pointed out that since its inception, liberalism placed emphasis on removing social and legal barriers to the liberty of individuals. Hence, liberalism promotes the freedom of each individual by removing obstacles or restrictions (Bell, 2014: 702). Therefore, there is an urgent need to expand our understanding of diplomacy and regional migration governance beyond state-centric perspectives, as individuals on the move are battling symbolic, virtual, and/or material walls and frames of policies that

restrict their free movement, in the name of sovereignty and national interests (Alejo, 2020). Liberalism stresses that each individual is free to decide for themselves which goals to pursue in life hence every individual should be free to live as they want as long as they do not hinder the freedom of others (Mill, 1998). This clearly shows how equality is essential in the liberal idea of freedom since every individual has an equal opportunity to enjoy liberty (Chau, 2009: 4). Figure 2 below illustrates the liberal view of freedom.

Figure 2: Liberal view of freedom



Source: Mill, 1998

Liberals became ever more concerned with moral universalism over the 20th century. Hence, human rights law is an essential element of public international law. (Dams & Van Der Putten 2015:6). They contend that measures safeguarding and advancing individual rights should be undertaken in order to preserve regional and global peace. As such, individual liberty and human rights are of the utmost political importance to liberals (Diez et al. 2010:27). According to Locke (1690: 10) no legitimate government has the right to undermine the rights of individuals or to exercise unlimited power because doing so is equivalent to slavery and further emphasises that “no one ought to harm another in his life, health, liberty, or possessions” (Locke, 1690: 10). Liberals also argue that people who are genuinely free in a community will be rational, transparent, and cooperative when it comes to matters of national security (MacPherson, 1980: 26). From a liberalist

perspective, this study highlights how migrants right to free movement is a very crucial matter for SADC success in migration management initiatives. The theory of liberalism is applicable to this study as it compels us to re-evaluate the theory and practice of diplomacy from perspectives beyond state-centric viewpoints.

2.4. Conclusion

This chapter unpacked and consulted various sources which helped to establish foundations and parameters of the nature of migration and diplomacy. Migration significantly affects politics in ways that transcend domestic policymaking, such as in the field of international diplomacy, or the manner in which nations negotiate and manage their affairs with one another and with other actors such as international and non-governmental organisations (Hamilton & Langhorne, 2011; Sharp 2009). The chapter gave an outline of conceptual key terms and also established a theoretical basis that will help to explain and interpret some of the data presented in the chapters below.

Chapter Three

Migration Governance in the Southern African Region

3.1. Introduction

“Develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States” as quoted in the SADC Treaty of 1992, article 5 (2) (d) (SADC Secretariat, 1992: 6).

The above inter alia captures one of the most crucial objectives of the overall SADC Treaty signed in 1992. However, it should be noted that within the SADC region, limited progress has been made towards the implementation of the SADC Draft Protocol on the Facilitation of Movement of Persons which is a very integral protocol when it comes to migration governance in the Southern African region as it can potentially address and/eliminate the plights of migrants in order to achieve regular and secure movement within the SADC region.

In essence, a variety of actors, including both state and non-state actors, shape migration governance however, this chapter focuses on migration governance as carried out by state actors particularly the work of governments in the region. It begins by providing a brief overview of the SADC regional bloc and gives an account of the ideals of free movement as applied in the region. The analysis will include a review of initiatives around official diplomacy in action on regional migration including the development and evolution of the Draft Protocol on the Facilitation of Movement of Persons to provide a better understanding of intra-regional migration with specific reference to the free movement of people. The various obstacles to the implementation of a regional migration regime based on free movement in the SADC region are also identified.

3.2. Background and Overview of SADC

Formerly known as the Southern African Development Co-ordination Conference (SADCC), the Southern Africa Development Community (SADC) which consists of 16 member states namely Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic Tanzania, Zambia and Zimbabwe, was formally established in 1992 at the start of the democratic transition in South Africa, after the end of Apartheid in 1990. At the core of its establishment are ideals that govern its established objectives on collective self-reliance, common political values, systems and institutions, harmonisation and rationalisation between member states as well as consolidation of historical, social and cultural affinities (Williams, 2010: 61). SADC member states recognise the importance of cooperating in order to develop the relevant policies, mechanisms, and legislation for a regional migration agenda (Williams, 2002: 61). One of the objectives mentioned in Article 5 of the 1992 SADC treaty, refers to the “progressive elimination among Member States of obstacles to the free movement of capital and labour, goods and services, and of people” (SADC Secretariate, 1992: 2,6). This policy agenda is a crucial component of Africa's renaissance and new drive to forge regional integration for more rapid and all-encompassing economic growth. This desire for increased regional cooperation through integrating and harmonising development initiatives is underpinned by the Lagos Plan of Action and the Abuja Treaty which aim to utilise regional economic communities (RECs) as building blocks towards the establishment of an African Economic Community. As a result, the ambition for regional integration necessitates the development of instruments to facilitate the free movement of persons as well as the free flow of means of production and goods. Regrettably, some SADC leaders have been nostalgic and unresponsive to regional attempts around promoting free movement of people, goods, and services in the region (Nwonwu, 2010: 150). The Draft Protocol on the Free Movement of Persons, which was finalised in 1995 for instance, has yet to be ratified and implemented since it did not receive the approval of South Africa, Botswana, and Namibia, SADC's three strong and most functional economies.

Moreover, regional cross-border migration, particularly the free movement of persons, has been acknowledged as a crucial element in the context of SADC's economic growth and integration. However, it is important to note that regional migration cannot be effectively managed on the basis of these states' domestic legislation. This is why SADC states need to work together to establish proper mechanisms, policies, and legislation to govern migration at a regional level (Williams, 2010: 64).

3.3. Formal diplomacy and Intra-regional migration management initiatives

The circular migration patterns in the SADC region demand robust diplomatic actions, common strategies for resilience and the responsiveness of governments in the region. To maintain the efficient and effective management of regional migration, given the various migration trends that negatively and positively affect the lives of millions of people. There are various ways in which state actors are dealing with migration related issues in the SADC region. For instance, between 2012 and 2016, in the context of South Africa, a total of 351 840 migrants were deported and from this pool, a total of 343 774 were nationals of SADC countries (UNODC, 2022). Thus, the SADC Secretariat body acting in their official diplomatic position crafted a 10-year regional strategy purported to combat illegal migration as well as the smuggling and trafficking of migrants. Furthermore, a review of efforts by the United Nations Office on Drugs and Crime in partnering with the SADC Secretariat dealing with the growing problem of human trafficking and smuggling of migrants presents a classic example of the role and efforts of state actors in dealing with migration related issues in the SADC region. In 2016, a total of 11 SADC member states represented by senior government officials from immigration officials, police, prosecutors as well as ministries of Justice from 11 SADC countries come together from 10 to 12 May in Johannesburg to discuss challenges that are associated with smuggling of migrants. These SADC member states noted with great concern how the trafficking and smuggling of migrants in the region is a part of organized crime as the perpetrators generate huge profits at a high human cost. Human trafficking and smuggling of migrants expose women, as well as children to sexual abuse and other violations as migrants, become easy targets for exploitation (Koser, 2000: 95). Needless to say, these initiatives bear testimony to collaborative diplomacy by official government actors in dealing with

migration issues within the SADC region. Thus, governments over the years have put safeguards to protect migrants and provide safer means to facilitate migration and combat illegal activities linked to this phenomenon. However, these efforts have in some instances resulted in state actors' diplomatic decisions causing impediments towards free movement.

It should also be noted that in the SADC region, there is no clear overall fully applied regional policy framework that governs overall migration and that a series of policies are currently separately used to regulate regional migration (Oucho, 2006: 52). Hence, SADC member states individually have their own respective national migration policies that are independent of each other. Their respective national policies govern the entry, stay, and employment of foreign migrants. Thus, regional migration at SADC lacks uniformity due to the lack of an overall regulatory framework despite the influx of documented and undocumented migrants in and around the region. Although there is an absence of an overall regional framework on migration, there are a number of official SADC official documents and initiatives that seek to address regional migration. For instance, the SADC Treaty sets regional body objectives that necessitate migration to achieve complementary strategies to maximize productive employment as well as utilisation of resources in the region. More specifically, Article 3(a) of the SADC Protocol on Education and Training specifically sets SADC members on a path “towards the relaxation as well as the eventual elimination of migration formalities” to promote freer rationales like studying, teaching, research and other (SADC Secretariate, 1992). The SADC Protocol on Facilitation of Movement of Persons, and the 2000 Migration Dialogue for Southern Africa (MIDSA) are among others some of the instruments used to deal with or address migration related issues across the region. However, it should be noted that mechanisms such as the SADC Facilitation of Movement of Person though it seeks to provides regional framework on migration across the region, it has not come into force and is further weakened by the fact that it has only been signed and ratified by very few member states, despite it being a legal binding document (Muchabaiwa, 2010:4). Congruently, MIDSA was established with the aim of assisting governments in the SADC region to progressively respond to the African Union’s Strategic Framework on Migration as well as the African Union’s Common Position on Migration and Development (Oucho, 2006: 48). Evidently, a correlation

between official government entities 'diplomatic entitlements' and regional migration are given testimony to by 2010 MIDSA Ministerial Conference which adopted recommendations to enhance migration management (Wachira, 2018: 46). This is evidence of diplomacy in action on regional migration as it also led to the establishment of migration focal points in relevant ministries, agreements on common regional standard operating practices, harmonised border management systems, to mention a few. Even though the recommendations alluded to were non-binding, the 2010 ministerial conference led to the drafting of a Regional Action Plan on Labour Migration for Southern Africa during one of the MIDSA technical meetings that were held later in 2012.

3.4 Understanding Free Movement in Southern Africa

Intra-regional migration is a cross-cutting phenomenon with both favorable and negative ramifications that affect several African states, including the SADC as a regional bloc (Crush & Williams, 2005:28). The foundation of free movement within SADC is traced back to the Abuja Treaty, which anticipates the accomplishment of this phenomenon by 2023. As well as Agenda 2063, the continent's grand development plan in the 21st century, adopted by the African Union (AU) to lay out a new road map for achieving deeper integration and continental objectives, such as the adoption of an African passport as well as a regime based on unrestricted mobility of people (Gwatiwa & Sam, 2018). With the gradual progression of the SADC region towards free trade (unrestricted movement of goods and capital) and potential economic integration and growth, the subject of migration, particularly the free movement of persons, has repeatedly risen to the fore (Williams, 1999).

However, the idea of free movement is an extremely contentious issue. Even those who advocate for the ideals of free movement have also conceded that it is so much easier said than done. But states are highly suspicious of free movement as it is regarded as a threat to national sovereignty. Migration is viewed by states as a security issue, and there is a high likelihood of them agreeing on matters that enhances states' power to exclude migrants and one thing that all member states can agree on is that states hold the ultimate authority to control migration (Maunganidze & Formica, 2018: 13). Free movement of

persons is still weighed against the economic and political interests of individual SADC member states. Protectionist language dominates national policies, institutions, legislations, and mechanisms created to manage intra-regional migration and change seems very unlikely. Unless the region successfully conceptualises, designs, and implements a long-term regional migration mechanism inclusive of all member states which fosters greater economic parity (Williams & Carr, 2006: 4).

3.4.1. Towards Freedom of Movement: The case of the SADC Draft Protocol on the Facilitation of Movement of Persons

3.4.1.1. SADC Draft Protocol on the Free Movement of Persons

The SADC Secretariat developed and supported the comprehensive SADC Draft Protocol on the Free Movement of Persons (henceforth referred to as the Free Movement Protocol) in the mid-1990s. The process of preparing the Free Movement Protocol commenced with a workshop held in Harare in 1993 (April). Thereafter, there was a SADC Council of Ministers meeting attended in Swaziland in 1994 (July). The resulting Free Movement Protocol's initial draft was completed in early 1995 and forwarded to member states for review in mid-1995 (Oucho & Crush, 2001: 142). The initial 1995 Free Movement Protocol was based on a concise vision of a region with a shared past and a future community characterised by flows of goods, capital, and individuals unrestricted by state borders. The Protocol's primary objective concerning all citizens of member states was "to confer, promote and protect (a) the right to enter freely and without a visa the territory of another Member State for a short visit (phase 1); (b) the right to reside in the territory of another Member State (phase 2); and (c) the right to establish oneself and work in the territory of another Member State (phase 3)" (SADC Secretariate, 2005). So, the Protocol's ultimate objective was the gradual elimination of intra-regional restrictions between member states and outlined the three-phase implementation process as stipulated above.

3.4.1.2. South African Draft Protocol on the Facilitation of Movement

Member states' response to the Free Movement Protocol was prompt and decisive. South Africa in particular was concerned and opposed the Protocol to gradually remove borders within the SADC region. However, they were not the only ones with deep reservations. Namibia and Botswana were useful allies despite the fact that the majority of member states supported the idea. South Africa went on to create its own version of the Protocol, named the Draft Protocol on the Facilitation of Movement (hereafter referred to as the South African Protocol) released by the Department of Home Affairs in January 1997 and sent to the SADC Secretariat for consideration. Compared to the Free Movement Protocol, this document was considerably more cautious (Oucho & Crush, 2001: 143). South Africa's justification for rejecting the Protocol was centred on their national interests and their primary concern was protecting the security of the state. South Africa argued that compromising its immigration policy, and control, to allow freedom of movement would subject citizens to an even more difficult situation with disastrous outcomes. Another argument was that South Africa is a migrant-receiving state unlike its neighbouring migrant-sending states and that the majority of immigrants are 'illegal' migrants who contend with citizens for employment, pose a health risk, and overpopulate the state (DHA, 1996).

3.4.1.3. SADC Draft Protocol on the Facilitation of Movement of Persons

Resultantly, the SADC Secretariat authorised a redraft of the initial Free Movement Protocol in 1997 and initiated the process of reviewing and redrafting the Protocol, in an attempt to deal with the objections while taking into consideration all governments' concerns. This process resulted in a revised protocol renamed the Draft Protocol on the Facilitation of Movement of Persons (hereafter referred to as the Facilitation Protocol). Evidently, the notion of "facilitation of movement" raised fewer concerns than the notion of "free movement". According to (Oucho & Crush 2001: 152) the SADC Secretariat addressed objections to the Free Movement Protocol by diluting the Protocol's language without discarding the original document's core principles and objectives.

Although giving a clause-by-clause comparison of the two SADC Protocols is beyond the scope of this study, it is necessary to highlight some of the fundamental changes and differences in the wording and intent. As mentioned above, the phrasing of the Free Movement Protocol was significantly watered down at numerous crucial points. For instance, every mention of rights was removed from the document. While the Free Movement Protocol sought “to confer, promote, and protect the right to entry residence, and establishment, the Facilitation Protocol on the other hand mainly aimed “to facilitate entry, residence, and establishment”. Additionally, all mentions of "free movement" were erased. Article 10(3) of the initial Protocol pledged states “to increased cooperation in formulating policies on the free movement of persons. The subsequent agreement, however, only pledged states “to cooperation in formulating policies on the movement of persons in the region” (SADC Secretariate, 2005; Oucho & Crush 2001: 152). Furthermore, the vow to work towards introducing a SADC-wide passport was replaced with a pledge to introduce “machine-readable passports”. The six months visa-free entry duration that was cited as phase 1 of implementation was decreased by half to three months, another different element is that countries reserved the right to forge bilateral agreements with other countries over entry terms, which was not something the initial Protocol took into account (Oucho & Crush 2001: 152). This clearly shows the power dynamics at play within SADC regional migration governance and that economically affluent states are willing to do whatever it takes to advance and/or protect their sovereignty and national interests. This is also evident in the fact that the rejection of the initial Protocol by South Africa, supported by Namibia and Botswana resulted in the initial Free Movement Protocol being drastically diluted and repackaged into the SADC Facilitation Protocol.

3.5. Reflection - Real Freedom of Movement

Even though there was considerable enthusiasm towards the idea of free movement in the early years of SADC, it gradually lost its intensity. This is because Southern African nations states prefer bilateral and smaller-scale multilateral agreements and this generally places more attention on constraining and discouraging movement as opposed

to managing it, and this stalls the implementation of projects and initiatives (Crush et al. 2017; Oucho, 2007).

Furthermore, evidence implies that free movement exists to some degree in SADC. On paper, people from SADC member states can relatively freely travel within the region without any visa requirements. For example, several bilateral and multilateral agreements control labour migration in the region notably those between South Africa and its nearest neighbours. However, literature indicates that the agreements that are signed and the reality at border posts are two very different things. Existing practices are substantially less virtuous and vary significantly from what is written on paper. Although it is relatively easy to travel without a visa for short periods of generally no longer than 90 days, the same cannot be said for longer-term migration within the region. Migrants must demonstrate that they have a job or study offer and that they can support themselves financially throughout their stay, in order to be granted entry for a longer period. Another prevalent issue is that most potential migrants find it very challenging to secure the necessary supporting documentation required for visa applications. Also, because the administrative procedures are sometimes long and expensive, some migrants resort to employing irregular movement channels (Maunganidze & Formica, 2018: 7 - 8).

Important concerns related to migration including human rights, development, and social integration are only moderately addressed by existing regulations. Major priority areas are the management and security of borders. Further, 'emergency measures' like encampments and forced deportations are given preference by SADC member states (Nshimbi & Fioramonti, 2013). This approach is not only expensive and logistically challenging, but it is also a very ineffective strategy for controlling regional migration flows. The evidence demonstrates that deported migrants typically return using informal routes of migration (Segatti, 2017). The analysis provided in this study shows that free movement is not a primary concern on states' agendas. Furthermore, although there are many different migration management practices the securitisation of migration continues to be emphasised by states.

3.5.1. Lessons Learnt

Deep-seated stigmas and fears about migration within the SADC region may be eradicated by highlighting experiences in other countries/regions in the globe. Particularly, addressing and overcoming the prevalent bias against encouraging the free movement of people. Indeed, the paradigm of regional integration that is now prevalent in Southern Africa does in fact privilege the free movement of capital and goods, although to varying extents. The European Union (EU) is a suitable example to apply as their community passport has been successful in the region as a result of member states acting to adopt the resolutions pertaining to the creation of the passport and changing their domestic laws and institutions to reflect the resolution's terms (Fagbayibo, 2015:14). Additionally, the area of free movement was constructed in the 1990s yet estimates show that just 2.5% of all EU member states' total populations has actually relocated and resettled in another country after taking advantage of the unobstructed ability to move freely within the area (Fioramonti, 2013: 143). Most individuals frequently travel, but they do not seek jobs or move permanently. This ultimately disputes the prevailing perception seen in the SADC region that applying the ideals of free movement results in floods of migrants towards economically affluent countries.

3.5.2 Impediments to establishing an effective regional migration framework

In the SADC region, the implementation of a working regional migration regime that is founded on free movement is confronted with numerous impediments. The major ones identified in this study are mentioned below, these are interconnected and reinforce one another. The acknowledgement of these obstacles is crucial for the pragmatic advancement of the freedom of movement agenda.

SADC member states are well aware of the urgent need to enhance migration management efforts. This is evident through member states' participation in discussions around migration at regional and international levels. Talks that take place through initiatives like the MIDSA and the Southern African Ministers' Conference on Population and Development have reinstated the agenda for freedom of movement agenda back on

the table. The continuation of these discussions and negotiations is essential to ensuring that SADC works toward establishing a shared stance on migration. However, the real impact that these dialogues bring is questionable as states do not always present clearly articulated positions on how migration ties into their broader developmental ambitions, yet they continue to advocate for agreements that are centred on security and control.

Additionally, access to precise data and reliable information concerning migration is very limited in Southern Africa. These fuel misconceptions about migration and, in turn, migrants. In instances where data exists, policymakers do not always trust it or even take it into consideration. Therefore, rules are based less on precise factual evidence and more on misconceptions and perceptions regarding migration (Maunganidze & Formica, 2018: 7). Lastly, the widening socioeconomic divides within and between Southern African states are severely hampering the successful adoption of a more collective approach to governing migration.

3.6. Conclusion

The information provided in this chapter, including the detailed explanation of the development of the SADC Free Movement Protocol, clearly shows how states' diplomatic actions follow a realist form of thinking when it comes to dealing with regional migration. This is seen through the prioritisation of sovereignty and individual state interest on matters of regional importance as well as the resultant absence of progress on the ratification of the Protocol. Consequently, this ultimately becomes a hindrance to the effective functioning of the notion of free movement within the SADC region. Cross-border movements will continue to prevail, and the exercise of power by economically superior states to protect their interests and influence migration decisions at the regional level means that movement will persist in an irregular and unmonitored way. This ultimately implies that the region's potential to develop effective regional management initiatives and systems to govern lawful migratory movements is delayed, if not lost entirely.

Chapter Four

Non-State Centricism and Migration Dynamics in Southern Africa

4.1. Introduction

Migration in the 21st century has become one of the dominant defining features in global and regional governance. This phenomenon under the globalisation umbrella is affected by a convergence of causes as well as various features and facets that make it unique in diverse respects. For instance, climate pressures, conflict or economic hardships, and others inform existing patterns of mobility thus profoundly reshaping political, economic, and social systems including diplomacy as we know it.

The 1990s brought about profound economic and political transformation in the Southern African region. Several patterns of mobility rapidly emerged as a result of the governance and development implications of this transformation. In a single decade (1990 - 2000), South Africa grew to become the new migration hub in the region and beyond prompting regional migration labour flows. The shift from collective mining labour agreements that characterised migration prior to 1990 in South Africa changed to largely informal and more individual migration. This required more robust responses from all governments in the region, yet responses were defensive and noncommittal. Regional policies or initiatives remain as the World Bank (2011) asserts “marooned in an approach rigidly based on border control and national sovereignty” and all of this undermines efforts to ensure the effective management of regional migration including the protection of migrants. Therefore, incorporating non-state actors into regional migration governance is crucial, to enhance the integration of migration methods and initiatives from the "bottom-up" as a counterbalance to "top-down" state-centric procedures in the SADC region (Cornago, 2016; Stone & Douglas, 2018; Delano, 2018).

Based on the migration dynamics in the SADC region, the proceeding chapter highlights informal diplomatic action by focusing on the activities and engagements of non-state actors in the region. Thus, the chapter will unpack the non-state-centric dimension of liberalism on regional migration as the researcher explores and examines migration related issues, looking into the work of various non-state actors within some countries in the region. As shown in this chapter, non-state actors usually employ formal and informal engagement channels at the regional and national levels to further their objectives and ensure that their interests are realised.

4.2. The Non-State Centric View of Migration Governance

The global shift from state-centrism to non-state centrism is reflected in the emergence of other actors (non-state) in national, regional, and global policy processes (Nye and Ethane, 1987). These non-state actors challenge the state-centric conceptions. Their priorities and role(s) at different levels like agenda setting, policy formulation, implementation and evaluation, and others give testimony to the liberal non-state centrism of migration governance in the region.

As John Locke among other liberal proponents postulates, since its inception, liberalism seeks to limit the power of the government over individuals (Locke 1967; Dagger, 2022). Congruently, Thomas Paine expressed the doctrinal philosophy of liberalism in *Common Sense (1776)* by referring to the state/government as “a necessary evil” keeping in mind that their coercive power may also be turned against the individual. Thus, the liberal view is premised on holding the government to account, and to do that it requires a system of government based majority rule necessary to protect individual liberties while simultaneously preventing those in power from abusing the power they possess. Therefore, for the checks and balances on conscripts of individual liberties, non-state actors are thus vital in promoting, shadowing, and facilitating when necessary, the relevant structures and means to protect and ensure individual liberties. They usually primarily operate outside of the formal spheres and endorsement of the state structure though to some extent they can be seen as operating within that formal structure. Non-state actors play a critical role in various states as they influence foreign policy-making

decisions of nations by lobbying and advocacy in domestic settings and mobilising national or regional public opinions. Thus, their functionality, role, and engagement on issues of migration in the SADC region are explored herein as forms of 'informal diplomacy' or 'non-state centric governance.'

In this study, non-state actors' work is comprehended in a globalised, networked, and interconnected environment that extends beyond the static nation-state concept of people's interactions (Alejo,2020; Alejo, 2017; Constantinou, 2016; Badie, 2013). The SADC region has an extensive network of non-state actors in the sphere of migration, examples include the private sector, non-governmental organizations (NGOs), media outlets, Civil Society Organisations (CSOs), multilateral corporations, academic institutions, lobby groups, labour unions, and social movements among several others. Informal diplomatic actors engage in regional migration governance by cooperating among themselves and with state actors to attain their set objectives which are usually more migrant-centred as opposed to state-centered (Alejo,2020). Additionally, they actively work as democratising agents who have the ability and know-how to advance migrant rights through formal and informal channels and are also influencing the development of international and regional politics (Keane, 2009; Scholte, 2018).

4.2.1 NGOs

NGOs in the Southern African region are engaged in various initiatives centred on human rights protection, upholding, and overseeing the enforcement of regional migration policies, return migration and helping returnee migrants integrate into their societies, helping victims of human smuggling and trafficking, educating people about border management policies, monitoring of the flow of migrants and providing assistance with the use of migration data (Lahav, 2003; Reith, 2012). Furthermore, NGOs voice opposition to government policies that impede peoples' freedom of movement or violate their rights by limiting their access to alternate means of subsistence and restricting movements. Along with working with returnees by helping them integrate back into society through assisting with job opportunities, they also offer urgent shelter for refugees and internally displaced people in the region. NGOs step in to fill the gaps left by the lack of

government resources. As noted by Bisong (2019) for instance, “most states in the region do not have robust systems for the reintegration of returnees”. Therefore, NGOs are crucial as they offer needed support to the people and through their community-level efforts, they draw the state’s attention to pressing issues affecting the people which demand much greater joint effort to resolve (Teivainen & Trommer, 2016).

4.2.2 CSOs

CSOs that actively operate in the region place a strong emphasis on the free movement of people, strengthening labour mobility, and the protection of migrants’ rights. At the regional level, the majority of their operations are concentrated on migration governance. They interact with states through regional and national advocacy on migration policies (Banulescu-Bogdan, 2011). CSOs report infringements towards migrants' free movement and contest violations of migrants' human rights by states and others. They are assertive when it comes to holding nations to account for their concerning migrants (Kunz et. al, 2011). Additionally, they educate migrants on their rights in relation to the notions of free movement within the region and strive to discourage prospective irregular migrants through discussions about the risks associated with irregular migration (Reinold, 2019).

4.2.3 Media

The media actively contributes to the establishment of awareness and enlightenment, evaluates the effectiveness of implemented policies, and offers feedback to the government on such policies. Moreover, it provides a space for more detailed discussions on migration policies and how they affect society. The media has the regrettable ability to reinforce misconceptions, but it also contributes to the eradication of stereotypes that have been developed as a result of false narratives (Ruhs et.al, 2019).

4.3. Overview of Engagement/Involvement of Non-State Actors in Migration Governance in Southern African countries

Non-state actors are increasingly playing a crucial role in influencing and shaping regional migration policies. These actors are involved in numerous informal diplomacy roles and

activities dealing with regional migration issues that concern the promotion, protection, and security of migrants in the region. Nevertheless, this study focuses largely on CSOs and NGOs, specifically the work of organizations like the International Labour Organization (ILO), IOM, UNHCR, and the Catholic Church. Examples of the work that they do also focuses mostly on the case study of South Africa given that it has notably become the region's migratory hub; however, a few instances from other SADC nations are also featured.

4.3.1. The Catholic Church's involvement in addressing regional migration issues

Within the complex dynamics of migratory matters in South Africa, the Catholic Church is a major actor. Several commissions for pastoral care of migrants, particularly refugees have been created over the years. Some of these institutions operate through diocesan Caritas or Justice and Peace offices. Some of the dioceses that have structured their Pastoral Care for Migrants and Refugees include but are not limited to the Archdiocese of Johannesburg (1998), the Archdiocese of Durban (1999), 'the Diocese of Port Elizabeth, Caritas Aliwal North, Caritas Tzaneen, the Catholic Women's Shelter of Musina, the Diocese of Witbank, Caritas of Rustenburg, as well as the Caritas Polokwane' (Migrants Refugees, 2021).

At regional level, the Southern African Catholic Bishops' Conference (SACBC) established the Migrants and Refugees Office for the purpose of coordinating all the Catholic Agencies that are working together with all the various migrants. To ensure feasibility and objectivity in dealing with migratory issues in the Southern African region, they meet twice in the course of every year tabling relevant migration matters as well as establishing networks that ensure the realisation of their objectivities with regard to their intended interventions and assistance mechanisms (Prince, 2009).

Moreover, the Church through the Scalabrini Fathers and the Scalabrini Missionary Sisters in Cape Town and Johannesburg respectively offers services such as advocacy, employment aid, education, helping displaced women and children, and providing shelter to migrants and refugees including undocumented migrant minors. The Scalabrini

Institute for Human Mobility in Africa (SIHMA) for instance, is tasked with the role of conducting research as well as disseminating information that concerns migrants. Furthermore, the coordination of the SACBC Migrants and Refugees Office increased in 2018, the Scalabrini Missionary Sisters at Ressano Garcia (Mozambique) for instance have offered Pastoral Care services to migrants since 1994 and are working collaboratively with Komatiport Parish (South Africa). The SACBC broadcasts migration information on Radio Veritas (Parry, 2005; Migrants Refugees, 2021).

4.3.1.1 Human Trafficking

Within the SADC region, South Africa (bordered by Zimbabwe, Botswana, Mozambique, and Eswatini) is the top destination for migrants with an estimated total migrant population of 2 137 519 (Migrants Refugees, 2021). Despite scales of discrimination and xenophobic attacks against migrants, the country's economy and its relative stability continue to attract migrants. Unfortunately, it is also considered a country of origin, transit as well as destination for human trafficking activities amongst others (Adepoju, 2005). Traffickers in the context of South Africa generally utilise deception as their modus operandi rather than force, they mislead their victims who are mostly from underprivileged countries promising them well-paid jobs or in some cases educational opportunities (Yesufu, 2020). These victims are then forced into sex work, criminal activities, domestic labour, or agricultural work. Notably, between 2015 and 2017, a total of 2132 human trafficking cases were reported to the South African police despite the fact that trafficking cases often go unreported due to fear of retaliation (Migrants Refugees, 2021). However, in the year 2019, the country took it upon itself and increased investigations as well as prosecutions which also increased convictions of human traffickers. Resultantly, a host of non-state actors (CSOs, NGOs, International Organizations, and others) partnered with government efforts to actively work (through legislative and a variety of social programs), to protect and provide migrants with protective services that are tailored to protect those assisting investigations (Bello & Olutola, 2022).

The Catholic Church has also been actively involved in working towards addressing human trafficking in the region. For example, the SACBC in a joint venture with the Leadership Conference of Consecrated Life (LCCL) initiated a project known as Counter

Trafficking in Persons (CTIP) (Migrants Refugees, 2021). In their independent capacities, they create awareness on the subject of regional human trafficking while at the same time lifting the burden on those who would have already fallen victim to such practices by welcoming them as well as helping them find a home. They also act as proponents for legislation aimed at combating human trafficking as well as working against the recruitment of young people in the sex industry (Modise, 2018).

4.3.2. The International Organization for Migration's (IOM) Engagement in SADC Regional Migration

Within the Southern African region, the International Organization for Migration (IOM) plays a profound role in the dynamics of regional migration to a total of 15 countries in Southern Africa. These include Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia, and Zimbabwe. Primarily, the organization endeavors to enhance the migration management of African states by supporting them through technical assistance, border management, supporting migration research, and promoting migration advocacy to mention a few (IOM, 2019). The organization's footprint in the region on migration issues over the years was operated through 17 sub-offices with a total of 250 staff facilitating its mandate in Southern Africa.

Within the Southern Africa region, IOM has played a critical role in the following section:

- *Advancement of migrants' rights*
- *Establishment of a regional policy dialogue on migration*
- *Development of migrant-friendly policies*
- *Facilitation of South-South labour mobility*
- *Capacity-building of government and non-governmental actors on migration management*
- *Preparedness and response to migration crises and humanitarian emergencies*
- *Education of HIV/tuberculosis (TB) and other communicable diseases in migration-affected communities. (IOM, 2019).*

Based on the above, the ultimate goal of migration systems of the IOM in the Southern African region is to:

- 1) Advance the socio-economic well-being of migrants and society
- 2) Ensure that vulnerable migrants benefit from increased protection by both state and non-state actors
- 3) Provide assisted voluntary return and reintegration services to migrants returning from various countries of destination
- 4) Effectively address the mobility dimensions of crises
- 5) Facilitate intra-regional and inter-regional cooperation and coordination in migration governance among Member States
- 6) Ensure that migration takes place in a safe, orderly, and dignified manner.

The IOM has a solid regional footprint in Southern Africa, closely working with stakeholders in dealing with the multifaceted migration complexities. Its priorities speak volumes to the dimension of non-state centrism on regional migration. It is evident that IOM's mandate in the region is oriented toward creating strong working relations and networks with various stakeholders, including states, the mobile population as well as SADC communities at large (IOM, 2020). Some of the stakeholders include but are not limited to the Common Market for Eastern and Southern Africa (COMESA) and the Indian Ocean Commission (IOC). All of these stakeholders also play a critical role in the dynamics of regional migration in Southern Africa.

4.3.2.1. The IOM and UNHCR in South Africa

For any meaningful intervention or policies to be enacted, research and empirical data are needed to some extent. Thus, the IOM in its endeavours regarding migratory movements as well as internal displacements in South Africa seeks to improve data collection which aims to better manage migration situations and complexities at borders where the influx of migrants including refugees as well as asylum seekers are concentrated in significant numbers (Migrants Refugees, 2021). IOM assists the South African government in developing an effective migration policy, aids in the battle against

human trafficking, and offers the essential support to human trafficking victims. They also help the government in tackling mixed migration flows by enhancing its ability to recognise and help vulnerable migrants and to encourage the diaspora's active engagement to support development (Kunz et. al, 2011).

In the same vein, the UNHCR in the context of dealing with migratory issues in South Africa pays more attention to the protection, education as well as social assistance of migrants (like refugees, stateless persons, internally displaced people (IDPs), asylum seekers and others) (Migrants Refugees, 2021). In its mandate, the UNHCR supports the South African government in its oversight liberal role to respect its international obligations that are conscripted on the protection of said migrants. Domestically, the Protection Working Group (PWO) in South Africa is chaired by the UNHCR. The PWO works hand in hand with the South African Police Service (SAPS) in two distinct roles firstly, to prevent as well as respond to xenophobic attacks on migrants. It also champions the establishment of conducive reception conditions that ensure that refugees are able to get asylum (UNHCR, 2021). To further demonstrate the non-state-centric dynamics of non-governmental organizations in South Africa, the UNHCR partners have/run education programs that provide educational assistance to refugees and asylum seekers in South Africa (Twala, 2013). They also provide social assistance in the form of food, sanitary materials, social grants as well as non-food essentials that are given to the most vulnerable groups of migrants (Migrants Refugees, 2021).

4.3.2.2. The IOM – Case of Zimbabwe

Zimbabwe has a unique migration history in the region, it was mostly characterised as a country of immigration which was uncommon for Southern Africa, and imported labour from neighbouring countries like Zambia and Malawi as well as from Europe and Asia (Zinyama, 1990). This however changed after its independence as it was no longer receiving migrants, but people began leaving the country in unprecedented numbers (Zinyama & Tevera 2002). This has resulted in it being one of the biggest migrant-sending countries in the region and contributes the largest number of migrants in South Africa and Botswana, sources have estimated a total of 1.5million Zimbabwean migrants in South

Africa (Zinyama, 1990; Rutherford & Addison, 2007; IOM, 2018). Complex issues of migration rose in Zimbabwe constituting brain drain, increased cross-border movements, unlawful migration, and others. As the migration laws in the SADC favour the migration of skilled workers, this has resulted in a large influx of unlawful emigrants into destination countries (Chetsanga & Muchenje, 2003).

States have rightfully enacted laws to manage and control the emigration and immigration of people, however, some laws end up becoming an impediment to free movement and this can be said to be a violation of human rights as liberalism stresses individual rights to freedom of movement. Resultantly non-governmental organizations like the IOM have been put in place to assist migrants. The IOM promotes humanist and lawful migration and is present in more than 100 countries including Zimbabwe to ensure international cooperation on issues of migration, providing solutions to migration problems as well as aiding migrants and refugees in need. Over the past 2 decades, Zimbabwe has experienced a massive outflow of international migrants due to its economic challenges (Mcgregor, 2005). For example, to try and solve this issue, the IOM has set up a skills transfer programme called Migration for Development in Africa (MIDA) with IOM acting as an intermediary trying to match skilled people to jobs in Zimbabwe. However, given the situation in Zimbabwe, it is unlikely that this will attract return migrants to the country in the foreseeable future (Rutherford & Addison, 2007). The IOM makeup recognizes people's rights to freedom of movement. The organization's main focus is on migration management which involves migration and development, regulation of migration, facilitation of migration as well as addressing forced migration. It works together with non-governmental, inter-governmental, and governmental organizations (IOM, 2018).

4.3.3. The UNHCR and the Democratic Republic of Congo and Mozambique

Recurrently, the tragedy of violence affects most of Africa and this intensifies the number of forcibly displaced and stateless people. The Southern Africa region constitutes a total of 8.4 million migrants mainly from the DRC and Mozambique. Furthermore, the scales of political violence in different parts of Africa in particular in the Central African Republic resulted in the refugee movements into the SADC region.

In the practical application and promotion of liberal ideals, the UNHCR on several occasions intervened and documented an estimated total of 27 400 human rights violations as well as abuses mostly occurring in the Eastern parts of the DRC (UNHCR, 2021). One of the priorities of the UNHCR was to deal with gender-based violence especially the protection of migrants prioritizing prevention and community-based approaches. In the Cabo Delgado area in Mozambique, the UNHCR adopted a strategy that was aimed at reducing the risks at the same time ensuring quality services for displaced survivors. To assist, the UNHCR provided cash assistance and shelter for displaced and stateless people as was the case of the Malawi Dzaleka refugee camp. Apart from playing a vital role in providing sustaining health services for refugees, the UNHCR also assists refugees and asylum seekers with access to documentation.

4.3.4. The International Labour Organization (ILO) and The Southern Africa Migration Management (SAMM) Project

Under the arm of the International Labour Organization, (ILO), the SAMM project is a project that seeks to improve migration management in the region. To realise this, the ILO works in collaboration with other non-governmental and multilateral organizations such as the IOM, UN Office on Drugs and Crime (UNODC) as well as the UNHCR. The project is primarily oriented toward improving the policy environment for Southern Africa when dealing with labour migration at the same time improving access to legal and efficient means of labour mobility for migrants (ILO, 2022). The project also seeks to establish a migration observatory as well as establish rights-based legal and efficient channels for labour migration in Southern Africa. In essence, these establishments seek to provide adequate protection for migrant workers across the region. Simultaneously, the project also seeks to protect vulnerable migrants in Southern Africa and provide evidence-based management strategies and policies that are purposefully crafted to mitigate mixed migration challenges. Focusing on countries like South Africa, Zimbabwe, Botswana, Zambia, Namibia, Lesotho, Mozambique, and Eswatini among several others in the region (UN South Africa, 2021). Therefore, the focus area of ILO through the SAMM project correspondingly affirms the non-state centrism of multilateral and transnational

organizations (like UNHCR, IOM, UNODC, and ILO) who in their capacity are actively involved in dealing with regional migration issues in Southern Africa given liberal ideals.

4.4. Challenges to non-state actor engagement in the SADC region

Ideally, as the theory of liberalism posits, states are obligated to respect, protect and at the same time fulfill human rights. The theory also acknowledges that the very mechanisms or entities can potentially perpetuate the very violations against the people they are meant to lead. Yet another reality is that non-state actors are viewed negatively by policymakers; they are perceived as merely misappropriating resources meant for larger beneficiaries without making any genuine contributions to the policy process. In the end, this partly explains why policymakers are reluctant to involve non-state actors in shared spaces and in dialogues around migration (Bisong, 2019). On the other hand, non-state actors have proven to be useful contributors in the migration space as they are able to meet some of the challenges faced by migrants yet, at the same time, they fall short in other avenues. This can be attributed to the 'limitation of the law'. They are obligated to act in a certain manner by the state as it has the sovereign authority to govern respective nations. Despite the fact that opportunities and spaces for engagement between non-state actors and states do exist for working together in the policy process, engagement is dependent on the political will of governments. Governments are in control of determining whether or not to involve non-state actors, and even when they are involved, the decision to accept or reject their contribution rests with the government. In some circumstances, state interests take precedence over citizen interests as expressed by non-state actors (Bisong, 2019). Additionally, non-state actors face the challenge of dealing with restrictive laws in any given context, especially when dealing with repressive and volatile regimes that systematically discriminate and violate human liberties without recourse to the law. Given the scope of migration in the SADC region and the lack of active enforceable laws and frameworks, it is daunting for non-state actors to effectively operate and mitigate some of the challenges of migration due to the lack of priorities, uniformity, and common grounds by regional states.

Considering the various works, programs, and initiatives taken by NGOs and CSOs to resolve or deal with various migratory concerns in the Southern African region, it is therefore clearly evident that liberalism as a non-state centric avenue co-exists to some extent with the state-centric dimension of governance. As noted above, these organizations work with states to advocate for the protection of migrants including refugees, and asylum seekers while others are concerned with the social welfare of the migrants and their minors including dealing with the criminal practices of human trafficking. They are also concerned with the education and provision of employment aid to migrants. These obligations consequently compel non-state actors to engage with regional governments in a bid to craft lasting solutions.

4.5. Conclusion

Given the scope of the information presented above, the chapter gives testimony as well as evidence of informal/non-state diplomacy in action, by showing the proliferation of non-state actors in the SADC region and their involvement in migration issues at varying levels including individual, state, and regional levels. The chapter unpacked various activities and engagements that non-state actors partake in when dealing with migration related complexities in the region as they seek to influence directly or indirectly policy and governance on migration. As well as protecting, promoting, and safeguarding the guarantees of civil liberties, rights, and well-being of the migrant.

Chapter 5

Conclusions, Findings, and Recommendations

5.1. Introduction

This chapter highlights the arguments, key findings, and conclusions of this research based on discussions provided in preceding chapters that were derived from this study's main aim and objectives. The study sought to understand regional migration from a diplomatic perspective, by attempting to contrast the degree of formality and informality when dealing with migration in the SADC region. To ensure the feasibility of this line of inquiry, the research thus paid attention to exploring the extent to which a state-centric dynamic (realism) co-exists with a non-state-centric dynamic (liberalism) when dealing with migration issues in the SADC region, as expressed in Chapter 2. Chapter 3 was dedicated to giving a critical assessment and exposition of state centrism in relation to migration dynamics in the Southern Africa region. Chapter 4 was then dedicated to giving a critical assessment and exposition of non-state centrism in relation to migration dynamics in the region. Therefore, the proceeding section presents discussions of findings under which the main aim of this study which is determining the degree of co-existence between the diplomatic actions of states and non-state actors in managing migration issues in the region is addressed.

5.2. Discussion and Findings

After a critical examination of the performance or engagements of states and non-state actors in dealing with migration issues in the SADC region, it is evident that non-state actors play a crucial role and that their involvement is of paramount importance as their work transcends beyond sovereign constraints which seems to limit states from effectively engaging in regional migration complexities beyond their borders. Notably, the SADC region lacks an enforceable regional mechanism or system that can be used to standardise and regulate migration governance efforts to mitigate migration challenges.

Primarily, this is due to the constructs of realism that states are rational actors and are propelled to act or pursue their own 'national state interest' in the international arena. This, therefore, makes it difficult for Southern African countries to deal with regional migration issues unanimously, cohesively and effectively as the prevailing circumstance is focused on states' individual needs and national interests. However, Southern Africa is a very porous region and intra-regional migration is likely to continue in the future. Therefore, states need to relinquish their state-centric (protectionist) approach to dealing with migration and the formulation of policies thereof. States must understand that fostering collaboration between their efforts and those of non-state actors can enhance state operations in the field of migration and perhaps alleviate the many migration issues that the region encounters, such as managing the growing issue of irregular migration.

5.2.1 The co-existence of a state-centric dynamic with a non-state centric dynamic in SADC migration

Migration governance necessitates collaboration between multi-stakeholder actors inclusive of both states and non-state actors and as this study has shown SADC member states recognise the importance of cooperating in order to develop the relevant policies, mechanisms, and legislation for a regional migration agenda. However, even with the rising interest in the involvement of non-state actors in migration governance and the collaboration that ensues, the literature available on their involvement in regional migration governance and their co-existence with states is still limited. The arguments and analysis presented in this study seek to address this gap. It adds to the body of literature by evaluating the dynamics, the network of interconnections, and underlying interests driving actors in migration policy processes. It also explores how the state and non-state actors engage to achieve respective policy objectives, which may be consistent or contradictory depending on the underlying interests.

Based on the evidence and discussions that were provided in preceding chapters indicate that there is an element of co-existence between state centrism with non-state centrism in the contemporary world and particularly in the SADC region. Given the account of several non-state actors mainly CSOs and NGOs whose works were scrutinised, the

researcher notes that the degree of co-existence of states in the SADC region with non-state actors creates a mutual dependence matrix, where one will not be able to function without the other in dealing with regional migration issues. As illustrated, non-state organisations such as the Catholic Church, the IOM, UNHCR, and the ILO among others, play a critical role in influencing state policies, laws and regulatory mechanisms notwithstanding their ground-level involvement in advocating for individual civil liberties and guarantees for migrants. The co-existence of states and non-state actors is also shown in the way issues related to human trafficking in the region are dealt with. For example, in 2019, South Africa took it upon itself to increase investigations as well as prosecutions and convictions of human traffickers. Resultantly, a host of non-state actors (CSOs, NGOs, International Organizations, and others) partnered with government efforts to actively work (through legislative and a variety of social programs), to protect and provide migrants with protective services tailored to protect those assisting investigations.

Additionally, states engage with non-state actors to overcome the information gap and communication gap that exists between the state and society. Non-state actors can serve as instruments to enhance political legitimacy and give government action more credibility. They can accomplish this through communicating and implementing state policies in their capacity as intermediaries between the state and the people. Furthermore, non-state actors that are operating in the region and are engaged in their core activities of advocacy and sensitisation are typically the first responders to migrants and have close relationships with them. By doing this, they close the gap between governments and migrants and can draw government attention to the issues migrants are faced with as well as inform migrants about alterations in legislation and other matters that directly affect them. Based on this crucial position, they are able to have close interactions with the government.

5.2.2. To what extent do they co-exist?

At the regional level, states and non-state actors engage within established institutional and policy frameworks. The institutional frameworks and institutions may either be robust

or weak, and they might be characterised by a state-centric or inclusive approach. Although formalised regional organisations and institutions assist in the development of migration governance there is a possibility for these to mainly focus on state interests and thus be solely governmental. It is in such cases that the co-existence of these two groups of actors is highlighted as non-state actors' involvement becomes essential to transform migration governance from a state-centric approach to an inclusive framework that encompasses other crucial issues like human rights and culture.

Also, the lack of a regional migration regulating body and enforceable regional migration laws and regulatory frameworks creates a vacuum or gap in migration governance that non-state actors step into and occupy. An example of how non-state actors do this is seen in the work carried out by the Catholic Parliamentary Liaison Office (CPLO) which functions as the main actor used for contact and dialogue between the Catholic Church and the South African Parliament and government as discussed in chapter 4. This, allows the Church, as a part of civil society, a platform to participate in discussions about public policy, and to influence the development of legislation and policy while championing the common good in areas of economic, political, and social concern.

Likewise, on a much greater scale, the degree or extent of co-existence between the two groups of actors is shown through the vast work, and initiatives of international organisations such as the IOM, ILO and the UNHCR working with governments of 15 countries in Southern Africa. These organisations as indicated earlier, support states through technical assistance, border management, advancement of migrants' rights, supporting migration research, and promoting migration advocacy as well as the development of migration-friendly policies and capacity building. As such, these organisations have a solid regional footprint in Southern Africa, closely working with stakeholders in dealing with the multifaceted migration complexities. Hence, to a greater extent, both state-centric ideals and non-state-centric ideals are interdependent and bring about a much-needed functional regional migration system – although it has significant shortcomings, it is functional to some extent.

5.3. Main challenges and drivers of migration and the effectiveness of the SADC

The bulk of the data presented highlights some of the main challenges and drivers of migration in the region. SADC's failure to function effectively is largely to blame for the region's difficulties in successfully addressing migration-related issues. SADC is institutionally weak, both in terms of its ability to implement a common framework for migration and developing concrete policies. The majority of SADC member states prioritise their domestic needs above any substantive supranational form of regulation. Without a solid regional framework supported by a shared development strategy, it will be difficult to establish a shared policy on migration and social rights as noted in this study.

Moreover, there is a major regional fragmentation challenge that exists in SADC. Typically, SADC member states are reluctant to harmonise their migration policies, despite declaring their support for such harmonisation and integration in the MIDSA process. Widely differing laws, policies, and practices persist and some states, like Angola, Botswana, and the Democratic Republic of the Congo, do not even possess a reference document on migration policy. Consequently, there is inconsistency in the procedures at border controls as they are carried out on an ad hoc basis. Thus, practices differ from border to border. Additionally, there is widespread resistance to cede control over border and migration management to SADC as national sovereignty continues to be crucial in migration management.

As identified in this study, most states are more concerned or preoccupied with their national self-interests, domestic challenges and needs with no regard to challenges from neighbouring countries. Even though they claim to want to encourage a more liberal approach to migration underpinned by labour migration, in practice, SADC member states have enacted more stringent and protectionist methods and strategies towards migration. Thus, up to now, there is reluctance towards establishing and managing actionable mechanisms that ensure compliance of all member states in upholding regional migration governance standards. This creates a lack of coordination, accountability, and cooperation and as a result, any efforts that are oriented at addressing migration challenges are impeded or constrained. This is one of the main reasons why

this research concludes to a greater extent that the degree of co-existence of states and non-state actors in dealing with migration issues in the Southern Africa region can be improved.

5.4. Conclusion

In a nutshell, regional migration initiatives by both state and non-state actors acting independently or together exist for a variety of reasons that have been unpacked in the foregoing research. These include enhancing regular intra-regional mobility opportunities, protecting migrants' rights or dealing with unsolicited migration among others. The SADC Draft Protocol on the Facilitation of Movement of Persons can be used to guide better diplomatic action from both groups of actors. Only if a collaborative effort is put in by both groups to ensure that the provisions of the Protocol are diligently implemented for improved migration governance and better management of migrant flows and ultimately enhance the combined effort both parties invest to address migration issues in the region. This then ultimately creates the need for coordination and co-existence of state-centric dynamics and non-state-centric dynamics. Thus, the study has given an exposition of the philosophical constructs of realism as state-centrism and the theoretical basis of liberalism as non-state centrism in their approaches to dealing with regional migration in Southern Africa. The study thus highlights the complex interplay between these two schools of thought in the application of their conceptions of the roles of both states and non-state actors in dealing with regional migration challenges and issues in Southern Africa. Thus, given the conclusion and findings drawn, the research concludes by laying out recommendations in the final section of the study below.

5.4.1 Recommendations

This study notes that the ratification and implementation of regional standards and frameworks such as the SADC Protocol are critical to the governance of migration at a regional level in Southern Africa. Such standards and frameworks are vital for dealing with regional challenges that transcend beyond national borders. Therefore, for any meaningful change and improvement in regional migration matters, there is a need to

spearhead the implementation and management of such distinctive mechanisms that are imperative to addressing the drivers and challenges of regional migration in Southern Africa. Given the current regulatory state of regional migration, it is essential that all member states including non-state actors in the SADC regional bloc prioritise the effective implementation of regional conventions, protocols, treaties as well as declarations and principles that are oriented towards migration and migrants themselves.

Additionally, there is a critical need for political commitment from states, governments are urged to reconsider their approach and view of migration, particularly with regard to establishing social protection systems that are incorporated into a coherent framework of equitable and sustainable development. This study argues that the establishment of a regional enforcement and compliance body empowered to investigate regional migration matters without the limitation of states can also help to mitigate some of the migration challenges that the region is confronted with.

Furthermore, certain essential processes need to be in place in order to solve difficulties associated with regional migration. SADC must improve its infrastructure to strengthen its migration management capacity. It also has to pave the way toward developing a more unified policy that is appropriate for national implementation. Undoubtedly, additional data is required to fully comprehend the scope and typology of the phenomenon, and this will certainly require a bottom-up approach where information is directly obtained at the grassroots level. Through working with the border community, migrants, and even private enterprises to formulate a more sustainable solution for fostering integration and free movement in the SADC region.

Supporting initiatives like MIDSA will prove invaluable in developing the groundwork for the type of policy framework that both regional institutions and member states will need to improve their infrastructural capacity and foster constructive dialogue across sectors. The scope of the literature reviewed indicates that states and non-state actors have limited capacity in terms of the human and financial resources needed to actively and effectively engage in and address regional migration challenges. The same can be said of their ability to technically engage with one another. As a result, this study suggests that states and non-state actors both receive support in this regard since both groups of actors

need support through funding, capacity building, and training. These capacity-building initiatives can for instance incorporate training on technical content as well as other skills like project management, organisational development, and finance to improve their sustainability.

Lastly, both states and non-state actors must intensify their co-existence by developing regional migration data collection banks that illustrate the scenarios of shifting migration structures, systems, and patterns. All actors involved must put more effort into providing reliable information more regularly as it is crucial to address the existing data gap as well as ensure that this data is easily accessible for policymaking. To ensure that decisions made regionally relating to migration are founded on concrete empirical evidence. In order to facilitate evidence-based decision-making, SADC member states should enhance their means of data collection, especially disaggregated information as suggested in the 2030 Agenda For Sustainable Development. They must also build and improve their capacity for data analysis and current migration regulations in both governmental and non-governmental spheres. Before even considering how to implement migration policies, concerns with data systems around migration, dissemination of this data, and its use thereof, and developing uniform definitions and methodologies are things that urgently need to be addressed.

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