
The adverse effects of Niger's anti-smuggling law

Colleen Moser

The criminalisation of human smuggling in Niger has had a range of negative effects on migrants and asylum seekers, as well as on their former smugglers and host communities. Alternative avenues must be pursued.

Due to its position along traditional migration routes through West Africa, mixed flows of migrants and asylum seekers have historically passed through northern Niger. These mixed movements contained migrants searching for employment elsewhere in the region and a range of migrants and asylum seekers hoping to reach Europe, primarily via Libya. In this context, a relatively formalised smuggling system emerged, which eventually contributed substantially to the local economy.

However, as flows through the Sahel and Sahara grew during the early 2010s, the European Union (EU) became increasingly interested in preventing West Africans from arriving in Europe. Niger began cooperating with the EU on migration control and security policies, and in 2015

passed comprehensive national-level anti-smuggling legislation.¹ Building on the increased engagement in the region that had taken place over this period and in response to growing asylum seeker and migrant arrivals in Europe, the EU created its Emergency Trust Fund for Africa (EUTF) to fund programmes in development, border control and migration in order to prevent irregular migration flows at their source.

Enormous quantities of EU development assistance have been allocated to Niger in recent years, including €1.2 billion between 2014 and 2020 alone. The EUTF, which has projects worth €253 million in Niger, has supported anti-smuggling efforts by training Nigerien border personnel and offering small business projects to former

smugglers as a livelihoods alternative. From the perspective of limiting flows through northern Niger these policies have been a success, with an estimated fivefold decrease from the pre-crackdown rates.²

However, this reduction has also led to numerous negative results. Firstly, by preventing all non-Nigerien citizens from travelling north of Agadez, the anti-smuggling law unjustly limits regional mobility. Many of those migrants and asylum seekers who have traditionally transited through northern Niger should be permitted to migrate legally through the country. Niger is a member of the Economic Community of West African States (ECOWAS), whose Common Approach on Migration prioritises freedom of movement for ECOWAS citizens and emphasises the rights of migrants, asylum seekers and refugees.³ This movement ban weakens Niger's efforts on both fronts by hindering the ability of ECOWAS nationals to circulate freely, and by impeding asylum seekers' ability to flee armed conflict and other violence in neighbouring countries such as Mali and Nigeria.

In addition, this crackdown on smuggling has had a severe impact on both the economy in northern Niger – an isolated region in one of the poorest countries in the world – and the economic opportunities available to migrants and asylum seekers. The ban's abrupt implementation left Nigeriens with no alternatives to the income they had been earning from the estimated hundreds of thousands of migrants and asylum seekers who crossed cities such as Agadez during the peak period of 2015 and 2016. This Nigerien population includes not only former transporters but also those who ran restaurants, hotels and shops used by those in transit. Furthermore, the curtailment of transit through Niger of those seeking employment opportunities in Algeria, Libya or elsewhere on the African continent has further exacerbated economic pressures in an already challenging environment.

Finally, this ban has created numerous security risks for smugglers, their would-be clients and the region's broader population alike. Although the flows have decreased,

they have not been entirely eliminated. Instead, smugglers and their clients have been forced to take alternative routes around Agadez and other well-policed locations, often shifting into neighboring countries such as Chad, where the routes are less safe or less well-known. Whereas, before, smugglers' vehicles were accompanied by State-sanctioned security personnel, the ban now incentivises smugglers to avoid police and the military at all costs, even if it means abandoning passengers in the desert. As a result, although complete data are unavailable, mortalities appear to have skyrocketed, with twice as many migrants estimated to die crossing the Sahara desert than the Mediterranean.⁴ Furthermore, tensions between the native and migrant populations have increased, a worrying sign in a region already facing economic downturn and the threat of non-State armed groups.

Policy responses and analysis

Although some measures are being taken to protect those who are at risk of being abandoned by smugglers who fear punishment under the anti-smuggling law, these need to be extended and better supported. For instance, donors should consider increasing financial and logistical assistance for actors such as the International Organization for Migration (IOM) that is currently conducting life-saving search and rescue missions in the desert. This additional funding could be coupled with guarantees of amnesty from Nigerien law enforcement for smugglers willing to divulge the routes taken or the locations of their stranded passengers. While this two-pronged approach does not address the underlying drivers of this phenomenon, it would go some way towards addressing the mounting death toll in the Sahara.

EU-funded livelihoods programmes have been framed as an alternative for smugglers, largely through their funding of small business creation. However, these programmes have been criticised for their slow roll-out times, strict eligibility criteria, and limitations in terms of replacing the income previously generated through

June 2020

www.fmreview.org/issue64

transportation, housing and provision of food to migrants and asylum seekers. These limitations also have gendered implications, with women (who were more likely to have indirectly participated in the smuggling industry) less able to access the already limited funding for alternative livelihoods activities. International funders such as the EU should prioritise the expansion of livelihoods programmes, while also ensuring that broader development cooperation and other financial assistance actually reaches and directly benefits recipients. While it is important to acknowledge that such systematic economic change is not a short-term process, clear steps to improve the current situation would contribute to a decrease in the widespread vulnerability and tensions in northern Niger. This easing of economic pressures could also alleviate hostilities towards asylum seekers and migrants still attempting to transit through Agadez.

Niger's anti-smuggling law and its de facto externalisation of European border enforcement have created extensive harm in northern Niger. Although the law was enacted by Nigerien authorities, its conception and implementation were clearly swayed

by EU interests and funding. Ultimately, this type of control-oriented policy will never completely eliminate the underlying drivers of these mixed flows and will only continue to generate conflict, economic hardship and dangerous smuggling practices. The anti-smuggling law should be repealed, and Niger and the EU should instead consider alternative policies that better correspond to the regional context and the needs and interests of local people, migrants, asylum seekers and refugees.

Colleen Moser

colleen.moser@graduateinstitute.ch

Master's Candidate in Development Studies,
Graduate Institute of International and
Development Studies

<https://graduateinstitute.ch>

1. République du Niger (2015) 'Loi N° 2015-36 du 26 mai 2015 relative au trafic illicite de migrants' bit.ly/Niger-Law2015-36
2. Châtelot C (2018) 'Le Niger, sous-traitant africain de la politique migratoire de l'Europe', *Le Monde Afrique* bit.ly/Chatelot-Niger-2018
3. Tubiana J, Warin C and Saeneen GM (2018) 'Multilateral Damage The impact of EU migration policies on central Saharan routes', *Clingendael Reports* www.clingendael.org/pub/2018/multilateral-damage/
4. Miles T and Nebehay S (2017) 'Migrant deaths in the Sahara likely twice Mediterranean toll: U.N.' *Reuters* <https://reut.rs/2yxSiZl>