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## Conflict-sensitive and humane migration management in the Sahel

### Introduction

Since the advent of the 2015 crisis of migration and refugee governance in Europe, two broad normative frames have shaped migratory dynamics in the Sahel. The first normative frame is the one propagated by the populist right, depicting migration as a negative phenomenon that does not contribute to the economic or social life of migrant-receiving countries and as something that should therefore be contained as much as possible.<sup>1</sup> In the Sahel, this framework manifests itself as deepened intercontinental political cooperation on preventing and fighting migrant smuggling and human trafficking – combined with more development-oriented interventions that seek to address the root causes of migration.<sup>2</sup>

This is a mainly European-driven agenda, as African states generally perceive migration in a more positive light.<sup>3</sup>

The second normative frame – which depicts the facilitation of ‘irregular migration’ as a criminal activity – is a direct corollary of the hardened stance towards migration. In the Sahel, it is evident in the criminalisation, almost overnight, of the age-old practice of facilitating irregular migration across the desert. Niger responded to European pressure for a tougher stance on irregular migration, for example, by adopting an anti-smuggling law in 2015.<sup>4</sup> This law led to the arrest of migrant smugglers and the confiscation of their vehicles from mid-2016

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1 This frame generally obstructs discussions on legal pathways for migration. It should be noted that highly educated/skilled workers, the so-called expats, are excluded from this paradigm.

2 Examples include the Rabat process, the Euro-African Dialogue on Migration and Development, and the Joint Valletta Action Plan (JVAP), adopted at the Valletta Summit in 2015, which ‘enhanced cooperation between African and European partners and provided a framework for humane, sustainable management of migration on both sides of the Mediterranean.’ Khartoum Process. 2016. What is the Joint Valletta Action Plan? <https://www.khartoumprocess.net/valletta/valletta-follow-up> (accessed 22 November 2018). Also see the first pillar of the EU Agenda on Migration, which focuses on reducing the incentives for irregular migration.

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European Commission 2015. A European Agenda on Migration. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Brussels, 13.5.2015, COM (2015) 240 final, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf) (accessed 24 October 2018).

3 See, for example, Uzelac, Ana. 2018. ‘Their country’s global citizens: Political and economic agency of Senegalese diaspora’, *International Spectator*, 72:4.

4 Loi No. 2015-036 relative au Trafic Illicite de Migrants.

onwards.<sup>5</sup> Countries such as Sudan similarly took measures to prevent irregular migrants from freely passing through their territories.<sup>6</sup> These efforts, which are partially supported by international funding schemes, have criminalised migratory movements that have always been regarded as regular.

As this policy brief will show, the two migration frames have had significant negative consequences for those local communities that suffer the consequences of current migration governance in the region as well as for migrants traversing the Sahel. Migration policies and measures ‘tend to focus on short-term results, or “fixing the problem”’, and this has problematic implications for local, regional and international peace and stability.<sup>7</sup> Moreover, it puts migrants in a situation in which they

are increasingly subjected to abuses and human rights violations. What is needed is a more comprehensive approach to migration governance which recognises that investing in human rights and stability in migrant transit regions – through the incorporation of peace-building lessons – would ultimately serve European interests more effectively.

## Migration governance and the stability of Sahel communities

### The reversal of migration movement

Migration governance in the Sahel has affected migrants’ itineraries. Agadez historically formed a *carrefour* for circular migrants travelling to Algeria and Libya in search of employment, migrants and refugees aspiring to travel to Europe, and victims of human trafficking networks.<sup>8</sup> However, since the start of European engagement in migration governance in the Sahel, in 2016, the massive northbound migration route through Agadez has collapsed – with movements being reduced by an estimated 75 percent.<sup>9</sup> New migration routes have now sprung up that either circumvent Agadez city

5 According to the EU Progress reports on the Partnership Framework with third countries under the European Agenda on Migration, this was the result of EU engagement with Niger through a series of EU high-level visits and ‘very intensive exchanges’. See, for example, European Commission. 2016. Communication from the Commission to the European Parliament, the European Council and the Council. Second Progress Report: First Deliverables on the Partnership Framework with third countries under the European Agenda on Migration. [https://cdn3-eas.fpfis.tech.ec.europa.eu/cdn/farfuture/lvluKJ2pCZ2K4weJ4egAkaiBmUo4PxdHyThPrK9b4ok/mtime:1481716656/sites/eeas/files/second-progress-report-1\\_en\\_act\\_part1\\_v11.pdf](https://cdn3-eas.fpfis.tech.ec.europa.eu/cdn/farfuture/lvluKJ2pCZ2K4weJ4egAkaiBmUo4PxdHyThPrK9b4ok/mtime:1481716656/sites/eeas/files/second-progress-report-1_en_act_part1_v11.pdf) (accessed 22 November 2018).

6 In effect, the Sudanese capitalised on the international migration agenda to invest in the control of border regions against the presence of rebel armed groups. The armed forces sent to the border to fight migrant smuggling in effect gained strategic control over the migration industry. Tubiana, J., C. Warin and G.M. Saeneen. 2018. *Multilateral Damages: Impact of EU migration policies on central Saharan routes*. CRU report, The Hague, The Clingendael Institute.

7 Hörler Perrinet, T. et al., 2018. *Desk Study: Peace-Migration Nexus*. Geneva, Swisspeace. 3. For similar conclusions, also see International Rescue Committee, 2018. *Pushing the boundaries: Insights into the EU’s response to mixed migration on the Central Mediterranean Route*, July, <https://www.rescue.org/sites/default/files/document/2933/ircpushingtheboundariesfinaljuly2018.pdf>.

8 Only 20-30% of migrants and refugees travelling through Agadez aspire to travel to Europe. Molenaar, F. et al., 2017. *Turning the Tide: The politics of irregular migration in the Sahel and Libya*. CRU report. The Hague: Clingendael.

9 The number of (non-Nigerien) migrants entering Agadez reportedly declined from 350 per day in 2016 to 60-120 a week in 2018, a decline of 95-97.5%. At the Seguedine (also known as Segedim or Sow) checkpoint, mid-way between Dirkou and the Libyan border, the number of registered people travelling north dropped from 290,000 in 2016 to 33,000 in 2017, a decline of 91%. The International Organization for Migration estimated that all in all migrant flows north of Agadez had gone down by 75% during this period. Personal interview with Nigerien official. 2018. Niamey, Niger, April. See RFI. 2018. ‘A Agadez, on est passé de 350 migrants par jour à 100 par semaine’, 23 May. <http://www.rfi.fr/emission/20180523-agadez-on-est-passe-350-migrants-jour-100-semaine>. Zandonini, G. 2018. ‘The new European border between Niger and Libya’, *OpenMigration*, 11 May. <http://openmigration.org/en/analyses/the-new-european-border-between-niger-and-libya>, Tubiana, J. et al., *op. cit.*, 24.



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altogether or cross through Mali and Chad instead.<sup>10</sup> In Chad, this development has been facilitated by the gold mining networks that were formed following major gold discoveries in the Tibesti mountains in 2012.

Along with the displacement of, and drop in, northbound movement, there has been an increase in southbound movement in the region. Since the start of 2018, Niger has mainly been at the receiving end of this reversal of movement. The northern city of Agadez witnessed the arrival of deported migrants from Algeria and a high and

unexpected influx of 2,000, mainly Darfurian, asylum seekers from Libya, Chad and Sudan. In addition, the UNHCR implemented its Emergency Transit Mechanism (ETM), which involves moving vulnerable refugees trapped in detention in Libya to Niamey where they then await resettlement. These developments may be just the beginning of a new trend, as the prevention of migrant departures from the Libyan coastline might further reverse mixed migration movement in the region, as well as the need for emergency evacuations from Libya.

### Consequences for economic development and stability

In the short term, these developments have led to conflicts at micro-level. Our research has shown that removing the facilitation of migration as an economic opportunity

10 Chad has also become a new transit route due to security interventions in Sudan. Tubiana, Warin and Saeneen. *op. cit.*

from the Agadez region has resulted in frustration among those formerly active in the transporting and lodging of migrants. Although there are currently a substantial number of development projects targeting the Agadez region, only very few economic alternatives have been created or provided for those who benefitted directly from the facilitation of migration.<sup>11</sup>

This frustration has been further compounded by the emergency measures that the international community has put in place to deal with the sudden influx of migrants and refugees from Algeria and Libya. These (often underfunded) measures mainly target foreign nationals. Although such targeting is in line with the mandates of these operations, it is nevertheless a thorn in the eye of those who believe the international community overlooks the plights of the Agadez community. At the same time, Agadez has experienced micro-level conflicts between the host community and the, mainly Darfurian, refugees arriving in the city who, in line with negative perceptions of refugees around the world, are commonly regarded as ‘potential prostitutes, criminals and even armed fighters that speak a different language and that do not uphold Nigerien values’.<sup>12</sup> The absence of adequate reception facilities aggravated these tensions.

In the longer term, there are some indications that a failure to invest in long-term economic development could further strengthen the presence of militias in the region, which in fact undermines the state. This risk is further compounded by the negative effect of border closures on the regional economy more generally, as it makes cross-border trade and labour migration more expensive and difficult. In the north-eastern Kowar region in Agadez, our research found that joining militias in Libya generally presents one of the few attractive economic opportunities left to young men previously employed in migrant smuggling or gold mining. This only feeds the process of ‘militia-isation’ currently seen in the region and which is partly fuelled by

migration governance as well. In line with developments in Libya and Sudan, militias attempt to position themselves as forces able to control border areas in order to capture international legitimacy and funding.<sup>13</sup>

These developments take place in a wider context characterised by tensions involving militias. There is a growing presence of Chadian and Sudanese non-state armed groups, as well as increased conflict between various armed groups, traffickers and bandits in the Kowar region of north-eastern Niger. In northern Chad, the state actively seeks to undermine rebel groups by (violently) evicting gold miners and confiscating their pickup trucks. An increase in ethnic tensions between the Zaghawa, Goran and Tubu is also apparent in this region – partly fuelled by state actions that pit one ethnic group against another, for example, through administrative reforms that favour the Goran at the expense of the Tubu. The Chadian government’s recent belligerence against the Tubu, such as through its airstrikes targeting rebel groups and innocent bystanders in the north, also risks sparking a full-scale rebellion.<sup>14</sup> The implementation of counter-migration measures takes place amidst these dynamics.

### Investing in stability

In any attempts to strengthen border control and/or work with state armed forces to manage migration flows (or address terrorism), the international community runs the risk of getting caught up in the conflict dynamics outlined above – thereby becoming a pawn in larger (ethnic) conflicts fought out between central and peripheral regions. This would create greater security threats and migratory pressure than Europe already faces. There is a need to shift the narrative and to recognise that it is in Europe’s best interests to invest in long-term stability in the region. That would require moving away from quick fixes and investing in more durable solutions. Investing in stability and security in transit countries would accord with the

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11 Molenaar, Tubiana and Warin. *op. cit.*

12 Molenaar, Tubiana and Warin. *op. cit.*

13 Tubiana, Warin and Saeneen. *op. cit.* Militia-isation refers to the growing power of militias whose presence undermines the state.

14 Molenaar, Tubiana and Warin. *op. cit.*

Joint Valletta Action Plan's 'spirit of solidarity, partnership and shared responsibility' and would correspond directly to the Action Plan's objective to address instability and crises – thereby addressing a root cause of migratory movements.

Such an approach would:

1. recognise the agency of migrants and host communities and their potential role in contributing to peacebuilding and stability by:
  - a. making community security programmes and mappings of community security concerns and needs (including migrants' security concerns and needs) part and parcel of any attempt to invest in defence and security forces in the region
  - b. supporting local conflict prevention initiatives to monitor and mediate ongoing conflict dynamics, to improve the effectiveness of these initiatives, and to assess the conflict-sensitivity of interventions
  - c. investing in a permanent dialogue between defence and security forces and the communities in which they operate to improve the relationship between them
2. address the (perceived) negative effects of southbound mixed migration by:
  - a. providing financial support for interventions that address the needs of both host and migrant/refugee populations
  - b. investing in technical support and capacity-building activities that would improve service provision by regional and municipal authorities and link interventions to ongoing decentralisation processes
  - c. conducting a mapping of those who are the 'losers' of migration policies and investing in alternative economic opportunities for them, focusing specifically on target populations and regions that fall outside the scope of development programmes.<sup>15</sup>

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15 See Molenaar, Tubiana and Warin. *op. cit.* for a more elaborate discussion of these elements.

## Migration governance and migrant protection

### Criminalisation of migration as a driver for migrant abuse

Research has shown that the criminalisation of migration tends to worsen travelling conditions for migrants.<sup>16</sup> Criminalisation and controls generally do not stop migration movements but rather push the facilitation of migration underground. This usually results in the professionalisation of the business and concentrates the transport and lodging of migrants in the hands of seasoned criminals,<sup>17</sup> making it more difficult for state actors and the international community to monitor human rights abuses and address migrants' protection needs. As a consequence, migrants become overly reliant on smugglers for their direct needs – especially when state forces abuse their mandate, for example by extorting money from migrants.

Recent research conducted by the Clingendael Conflict Research Unit has shown that this process is currently underway in Niger and – to a certain extent – in Chad as well.<sup>18</sup> In addition to undertaking more dangerous desert journeys in order to circumvent desert patrols, smugglers have taken to hiding migrants in houses (ghettos) that lack adequate infrastructure. Migrants have limited access to food, water and sanitation. Access to healthcare has progressively deteriorated, as migrants generally refuse to leave the ghettos out of well-founded fears that they will be arrested

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16 Collyer, Michael. 2010. 'Stranded Migrants and the Fragmented Journey', *Journal of Refugee Studies*, 23: 3, 273-293. Tinti, Peter and Tuesday Reitano. 2016. *Migrant, Refugee, Smuggler, Saviour*. London: Hurst.

17 Tinti and Reitano. 2016. *op. cit.* Triandafyllidou, A. 2018. 'Migrant Smuggling: Novel Insights and Implications for Migration Control Policies', *The ANNALS of the American Academy of Political and Social Science*.

18 Molenaar, F., J. Tubiana and C. Warin. 2018. *Caught in the middle: a human rights and peace-building approach to migration governance in the Sahel*. CRU report, The Hague: Clingendael Institute.

by police officers looking for bribes. This has resulted in the fact that, as far as the city of Agadez, lack of access to medical care is reported as the number one cause of witnessed migrant deaths among a large sample of migrants surveyed under the Mixed Migration Monitoring Mechanism Initiative (4Mi).<sup>19</sup>

Migrants also face longer and more expensive journeys, which, combined with their increased isolation, has resulted in their increased vulnerability to trafficking, forced labour and kidnapping for ransom. These practices are seen in the border area between Chad and Libya, where our research encountered instances of forced labour in gold mines served by the same smuggling routes. In the case of Agadez, there are many accounts of female migrants being forced to prostitute themselves or to engage in survival sex.<sup>20</sup> As to kidnapping for ransom, some 1.5 percent of surveyed migrants and refugees who travelled through Niger reported having witnessed kidnapping incidents.<sup>21</sup>

### State involvement in migrant abuse

It is not only non-state actors such as smugglers who engage in migrant abuse. A rise in state actors' involvement in migrant abuse is another troubling consequence of the criminalisation of migration or the facilitation of migration. This is evident most obviously in the behaviour of security forces, which appear to have interpreted the push to halt irregular migration as *carte blanche* to increase the amount of money they extort from migrants in the form of bribes.

19 Mixed Migration Monitoring Mechanism Initiative (4Mi) data collected in West Africa by the Mixed Migration Centre (MMC). It should be noted that this is not a representative sample as 4Mi applies a purposive sampling. 4Mi is not a representative sample of migration flows. For a discussion of the methodology, see Mixed Migration Centre. *A summary of the Mixed Migration Monitoring Mechanism Initiative (4Mi) methodology and approach*. [http://www.mixedmigration.org/wp-content/uploads/2018/08/4mi\\_summary\\_methodology.pdf](http://www.mixedmigration.org/wp-content/uploads/2018/08/4mi_summary_methodology.pdf) (accessed 22-11-2018).

20 Molenaar, Tubiana and Warin. *op. cit.*

21 4Mi, *op. cit.*

They also engage in migrant arrests for bribery purposes.<sup>22</sup> This begs the question of how much EU funding goes towards the training of police forces that subsequently engage in migrant abuse.

More generally speaking, a hardened stance towards migrants – not unlike the one prevalent in Europe today – can be seen in the behaviour of national governments, such as Algeria and Morocco. Algeria has sharply increased its deportation of migrants to the border with Niger, while Morocco has similarly begun to deport migrants to border areas with Algeria. Furthermore, these deportations are conducted in an abusive manner. There are numerous personal testimonies of migrants being rounded up from their homes or the streets and being transported to desert areas where they are left to continue their journeys on foot without access to food or water.<sup>23</sup> There are no indications that these two countries – both signatories to the Refugee Convention – allow for the individual risk assessments or due process guarantees required under the fundamental principle of *non-refoulement*.<sup>24</sup>

### Protection of migrants

The shifting norms towards migration outlined above do not only result in incidental migrant abuses. Rather, and despite

22 Molenaar, Tubiana and Warin. *op. cit.*

23 Amnesty International. 2018. *Morocco: Relentless crackdown on thousands of sub-Saharan migrants and refugees is unlawful*. Moroccan Association for Human Rights (AMDH) 2018 الجمعية تطالب بإيقاف حملات التوقيف التي يتعرض لها المهاجرون/ات ببلادنا 26 September. <http://www.amdh.ma/contents/display/255> (accessed 22 November 2018). Human Rights Watch 2018. *Algeria: Inhumane Treatment of Migrants*, 28 June. <https://www.hrw.org/news/2018/06/28/algeria-inhumane-treatment-migrants> (accessed 24 October 2018) and Amnesty International 2017. *Algeria: Mass racial profiling used to deport more than 2,000 sub-Saharan migrants*, 23 October. <https://www.amnesty.org/en/latest/news/2017/10/algeria-mass-racial-profiling-used-to-deport-more-than-2000-sub-saharan-migrants> (accessed 24 October 2018).

24 OHCHR (United Nations Human Rights Office of the High Commissioner) 2018. *End of mission statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, on his visit to Niger (1-8 October 2018)*, October 8.

international norms on migrant rights,<sup>25</sup> conditions for migrants in the Sahel region have become progressively worse since the start of European efforts to counter irregular migration. At the same time, international responses to migrant protection needs remain fragmented and consist mainly of emergency measures undertaken by international organisations, such as search and rescue operations in the desert and the provision of humanitarian assistance to migrants *en route*.

One important step forward would be to move from a predominantly fragmented, international response to support for comprehensive migration governance in the Sahel region. This should include strengthening the capacity of transit countries to better address the challenges as well as the opportunities of regional mobility, based on a very broad understanding of migration. Nigerien efforts to design a (holistic) national migration policy represent an important first step in this direction and could serve as a blueprint for this approach to migration governance.

From a human rights perspective, concerned governments should be supported in taking the lead in the design and implementation of measures that would further the realisation

of human rights for all migrants, including those who are not refugees or asylum seekers and those who have not applied for assisted voluntary return (AVR) in compliance with international human rights norms and standards. This would be in line with the objective of the Joint Valletta Action Plan to support state building, rule of law and good governance in African partner countries (objective 1.3).<sup>26</sup>

For the international community, such an approach would involve:

1. support for national and regional migration governance structures at legal/policy level (adoption of frameworks and policies) as well as at institutional level (regional and national migration coordination mechanisms)
2. the mapping of, and support for, transit countries' national institutions and capacities to further the realisation of human rights for all migrants
3. the provision of technical assistance and capacity building to ensure that national laws and institutions are in line with international human rights norms and standards
4. support for domestic civil society organisations that could independently monitor the implementation of migration governance and offer assistance to migrants.

In addition, care should be taken to ensure that:

5. any international effort that applies capacity-building measures to strengthen security forces' migration management practices should include a human rights framework and a monitoring component on abuses and bribery
6. abuse and bribery perpetrated by security forces should be sanctioned, such as through the withdrawal of funding for

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25 See, for example, OHCHR 1990. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, <https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx> (accessed 24 October 2018). The OHCHR's Principles and Guidelines, supported by practical guidance on the human rights protection of migrants in vulnerable situations, provide further guidance. OHCHR and Global Migration Group, 'Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations', <https://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf> (accessed 24 October 2018). The OHCHR guidelines for human rights at international borders should also be taken into account here. OHCHR, 'Recommended Principles and Guidelines on Human Rights at International Borders', [https://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](https://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf) (accessed 24 October 2018).

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26 The Joint Valletta Action Plan was the outcome of the summit on migration that took place in Malt in November 2015. It 'brought together European and African leaders in order to strengthen cooperation on both sides.' Khartoum Process. 2016. What is the Joint Valletta Action Plan? <https://www.khartoumprocess.net/valletta/valletta-follow-up> (accessed 22 November 2018).

capacity-building programmes and the specification of mechanisms that will allow for the prosecution of offenders.<sup>27</sup>

## Moving conflict-sensitive and humane migration governance forward

Moving conflict-sensitive and humane migration governance forward would not require drastic changes in programming. Such an approach could incorporate measures that support institution building and include civil society in migration governance processes, as well as including steps to ensure that interventions are designed in a conflict-sensitive manner. At project level, interventions are already being implemented in line with this approach. Examples are the GIZ project supporting communities and regions in managing the challenges of migration (ProGEM) and the International Organization for Migration community stabilisation programmes in Niger. Both of those programmes take a bottom-up institution-building approach which supports local communities in identifying and articulating development priorities in light of larger challenges created by migration (governance).

What remains lacking is the application of this integrated approach to programme design at the higher, strategic level – including within the relevant ministries of European states. To date, migration policies have largely been designed in isolation from other, ongoing policy objectives such as supporting good governance, countering violent extremism and investing in regional stability. There is a tendency to incorporate migration objectives into development programming but this has mostly been a one-way street in which development is seen as a tool to address the root causes of migration. This overlooks the fact that the way in which migration policies are

currently implemented – with negative effects on stability and undermining the rule of law – actually strengthens push factors for migration.<sup>28</sup>

Moving towards a more dialectical approach would require the recognition that strengthening good (migration) governance, security and stability in the region is a European interest as much as it is an interest of transit communities and countries. It would require migration policies to be designed as part of larger development and security programming in the region, rather than the other way around. And it would require the implementation of *all* of the objectives of the Joint Valletta Action Plan – rather than only those that are expected to reduce numbers of irregular migrants in the short term.

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27 See Molenaar, Tubiana and Warin. *op. cit.* for more elaborate suggestions on how these recommendations could be implemented.

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28 It also overlooks African governments' own understanding of the migration/development nexus, which regards migration and remittances coming from the diaspora as engines of economic growth.

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