

# MIGRATION IN NIGER: A NEW MATRIX FOR CORRUPTION

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## I. INTRODUCTION

Confronted by challenges such as food insecurity, war, school failure and poor governance, young people see migration as the ultimate solution against poverty. Many leave their villages or countries to seek a better future in order to help their families but also to emancipate themselves. This adventure is not easy. They most often use the desert of Niger via several checkpoints where unfortunately they are taken advantage of by some agents who are supposed to secure them. This form of extortion increases the rate of corruption in our country.

## II. CORRUPTION RELATED TO MIGRATION: A SCOURGE THAT THREATENS DEVELOPMENT

Corruption is currently considered as an obstacle to our development. This scourge has its causes and consequences.

### A. Causal Link between Migration, Poverty and Corruption

Migration is mainly caused by poverty. Other factors may contribute to increasing this phenomenon such as alimentary insecurity, school failure, war. People who are candidates of migration in general come from some countries like Mali, Senegal, Gambia, Mauritania, Sudan, Cameroon, Nigeria, and Burkina Faso. They decide to attempt their chance in order to succeed in their life.

On the path of migration, they are forced to corrupt the defence and security forces placed at the borders. They have to offer the agent money to avoid delays and heavy administrative paperwork. Moreover, the responsibility of the State can be emphasized. This responsibility is perceived through the question of remuneration and staffing of screening officers. Indeed, the working conditions such as the material and financial constraints make difficult the accomplishment of the assigned missions. Low salaries can be a source of corruption that can lead the agent into deviant practices. The salary is rarely enough to cover the needs of the police officer; hence the permanent attempts of corruption. There is a link between the low income of the police officer, the strong social pressure he suffers and corruption. This social weight can be seen as the redistributive dimension of corruption. This whole situation is related to illicit enrichment, in which the lifestyle of the agent greatly exceeds his income. This constitutes the offence of unjust enrichment. This increase in illegal income is the fruit of corruption.

### B. The Mesh

This migration involves many actors.

#### 1. Police and Gendarmerie

Recent studies of corruption perception in Niger point to the responsibility of security services in corrupt practices. According to the results of the International Transparency Investigation and recently the High Authority for Combatting Corruption, the police and Gendarmerie are among the most corrupt public services<sup>1</sup>. Many police officers were punished by their hierarchy for professional deviation. The police appear as the central matrix of this corruption on the migratory path. The Gendarmerie is also cited as an actor of corruption across border areas according to the narrative of migrants. However, Gendarmerie is less

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<sup>1</sup> URBAMED Investigation, May 2018.

incriminated than the border police and still retains a certain ethics and deontology.

## 2. National Army

Among the migrants surveyed, 46% believe that they have been controlled by the military, particularly at the check points located along the roads and especially in the desert. These controls are less violent and more respectful of human rights. The army that previously was less indexed fell into the trap of corruption.

## 3. Smugglers, Carriers, Drivers: Actors of Circumstance

These people benefit more from the important migration industry, particularly in the region of Agadez, which is the main transit zone for sub-Saharan migrants to the Maghreb and Europe.

The smugglers are real brokers of corruption. Most of the time, they are young and old people who on the border, particularly in Agadez, ensure the passage of migrants to Algeria, Morocco and Europe. They ensure the long-distance transfer of migrants by car.

Also, we have another category of traffickers essentially composed by motor drivers commonly called « kabou kabou ». They organize the small-scale passage by connecting border localities (Nigeria, Benin, Mali, Burkina) to the border cities of Niger such as konni, petel kolé, Makalondi, zinder. It is a transport on small distance (maximum 50 km).

Indeed in the region of Agadez, corruption begins at the entrance of the city. Migrants are welcomed by smugglers. The smugglers negotiate the passage of each migrant to 13000FCFA. Migrants who do not have smugglers at their arrival at the border are spoiled and sometimes searched by the police. However, these smugglers have seen their activity shrink sharply since the application of the law N°2015-036 on the repression of the smuggling of migrants.

It should be noted that migrants are also actors of corruption. They prefer to pay money at checkpoints to avoid delays. In this case, without migrants there would be no corruption. These smugglers are for the most part unemployed and roam around the city in different bus stations to search for migrants. They are often apprentice drivers working on their own. Over time, some bought their own cars to indulge in this activity.

In order to accomplish their project, migrants are ready to practice many forms of corruption. They prefer to pay money at different checkpoints to avoid delays that may be caused by systematic searches of transport vehicles. Most of the time, they are not in a regular situation because they do not have the required travel documents.

## **III. FORMS OF CORRUPTION**

In most cases, the police agent is passive. It is the migrant who makes the proposal of corruption. Then the migrant becomes an active briber and the controlling officer a passive corrupted. official Several types of corruption are detected in the field of migration. We can cite concussion, which is a crime close to corruption, extortion, bribery, and at last illicit enrichment which is the result of corruption.

### **A. Concussion and Extortion**

Our penal code punishes "concussion" in article 124. Any civil servant, officer, agent clerk or servant is liable to prosecution for having received, demanded or ordered to collect duties, taxes, contributions or money or wages and salaries that they knew were not due or exceeded the actual duty owed. Defence and security forces subcontract state power for private purposes. This leads to the payment of undue costs that are collected by these border defence and security forces. These fees are paid even being in a regular situation. As a result, travel documents become irrelevant for migrants. This situation is an infringement of article 39 of the Free Trade Agreement of the ECOWAS. From the establishment of the passport to the departure each candidate for migration can pay between 80 thousand FCFA to 100 thousand FCFA. Once they arrive in Niger these fees can double at least at the various checkpoints.

Extortion is the act of obtaining a sum of money from someone by force. This is also a corrupt practice. According to a migrant, the police pick up the identity cards or passports and the migrants enter one by one into the office to pay amounts between 1000 FCFA to 10.000 FCFA.

## **B. Bribery**

This offence mentioned in article 132 of our penal code is treated as corruption. It is the act of promising, offering or giving to a public official or any other person directly or indirectly an undue advantage so that the agent or person may abuse his actual or supposed influence. In this case, as the borders are considered as lucrative posts, the procedure is for a public official to solicit directly or indirectly the favours of the hierarchy for an assignment. The agent comes inside of the heart of the basic system of corruption based on favouritism. So to be posted as the police officer at the border, you have to know someone or give something. Normally the transfer to a border post lasts 3 years but people can stay there for 7 years without being affected<sup>2</sup>.

## **IV. CONSEQUENCES**

The phenomenon of migration in connection with corruption today has huge consequences both on the legacy we have to leave to our children and on the security of our countries.

### **A. Heavy Legacy for the Future Generation**

The development of corruption on a large scale can have serious repercussions on posterity. The future generation will grow with the seeds of corruption. Our children will be affected and will internalize and adopt these negative and unworthy behaviours. The pillars of integrity will be replaced by immorality. A worthless society is doomed to disintegrate. This may create a state of nature where the reason of the strongest is always the best.

### **B. Threat to the Security of Our Countries**

Corruption promotes illegal migration. In addition, a good part of the resources to be returned to the State takes a personal destination. This is a shortfall for the public treasury. This loss of income in corruption related to transactions along borders and road corridors reduces public investment, particularly in the area of access to basic social services. Corrupt practices in border areas reinforce insecurity with the absence of serious control of migratory flows. This situation fosters the entry and stay of undesirable migrants who may be linked to armed or terrorist groups. We have no idea about the profile of people entering who can be bandits or criminals. Corruption promotes migratory flows and impacts on regional security. Members of terrorist networks can easily pass control points.

## **V. ANTI-CORRUPTION TOOLS**

### **A. Legal Arsenal**

#### **1. Universal Legislation**

The United Nations have adopted several instruments to fight corruption and regulate international migration.

- United Nations Convention against Corruption or Merida Convention of October 31, 2003;
- Convention on the Protection of All Migrant Workers and Members of Their Families of 18 December 1990, entered into force on 1 July 2003;
- United Nations Convention against Transnational Organized Crime, known as Palermo Convention, adopted on November 15, 2000, entered into force on September 29, 2003.

#### **2. Regional and Sub-Regional Legal Instruments**

- Inter-American Convention against corruption signed in Caracas on March 29, 1996 and entered into force March 6, 1997;
- Criminal Law Convention on corruption adopted by the Council of Europe on 27 January 1999;
- Civil Law Convention on corruption adopted by the Council of Europe on 4 November 1999;
- OECD Convention on Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997;
- African Union Convention on Preventing and Combating Corruption of 11 July 2003.

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<sup>2</sup> Provisional Report on the link between corruption and migration, May 2018.

3. Internal Legal Corpus

- Constitution of 25 November 2010;
- Pénal Code and Penal Code of Procedure, January 2018;
- Code of the public markets;
- Law number 2016-44 of 06 December 2016 establishing, missions, attributions, composition, organization and operation of the high authority to fight against corruption and related offences.

**B. Anti-Corruption Organs**

In Niger, several anti-corruption organs have emerged. Institutional and non-institutional actors work to fight against corruption and regulate international migration.

1. High Authority for Combating Corruption and Related Crimes (HALCIA) and National Anti-Corruption Strategy (SNLC)

The High Authority for Combating Corruption and Related Crimes, known as HALCIA, is a permanent organ attached to the Presidency of the Republic, whose main mission is the prevention and fight against corruption and related offences. It was created by decree number 2011 of July 26 and its mission is to monitor and evaluate the anti-corruption programme. It is responsible in relation with the other actors to design, develop, implement and monitor the national strategy as well as an action plan. This structure has spurred the adoption process of the national anti-corruption strategy (SNLC), which is the reference document for the prevention and fight against corruption. This structure has powers to investigate all cases of corruption throughout the country.

2. National Financial Information Processing Unit (CENTIF)

The unit existed since 14 September 2004. It is under the authority of the Ministry of Finance. It handles reports of suspicions. It can directly transmit the case to the Prosecutor's office if the facts are likely to constitute money laundering or the financing of terrorism.

3. Green Line and Information Claim Office

- In the context of corruption Nigeriens can call 08 00 11 11 at any time and lodge their complaint. This number is nominated Green Line. It is a tool for controlling the management of some administrations and play the role of alert. Complaints and denunciations are recorded and prosecuted if founded.
- The Information Claim Office fights against corruption in the judicial sector at the beginning. Over time the mission of this office was extended to five ministries, namely justice, national education, scientific research, economy and finance, and public health. It offers to citizens several types of services. Its purpose is to provide to people with all possibility useful information on all acts done in these administrations including the nature of the acts, their costs, the procedure to follow, the place of deposit or withdrawal of the act, the processing time of each service. Now it becomes an instrument to help denounce corruption.

4. General Inspection of the Security Services

It includes the inspections of the National Police, the National Guard and the Civil Protection. Its main purpose is the administrative and disciplinary control of these services and their activities. It was created by decree in 2011 revised by the decree of 16 June 2017. It includes three operational components: the three inspections of the security services, the division of disciplinary investigations, studies, audits and pedagogical control and the division of judicial investigations and body constraints. It also has the power to terminate the functions of the incriminated agent without prejudice to criminal sanctions. General inspection had 21 cases related to ethical and deontological breaches. Among these cases six have been brought to justice.

5. The National Coordinating Committee Against Trafficking In Persons and Its Action Plan

Under the authority of the Ministry of Justice, the committee is the driving force for design and development of policies and strategies for combating human trafficking and the smuggling of migrants. The operational arm of the committee is the National Agency for combating human trafficking. It is therefore responsible for implementing the Committee's strategies and action plan. It is also responsible for developing and undertaking awareness and education actions to prevent and reduce human trafficking.

6. Civil Society

Civil society is very active in the fight against corruption:

- Human rights organizations
- Organizations and journalists' associations. These organizations include the Nigerien network of journalists for integrity and transparency and the Nigerien association of anti-corruption journalists

7. Judicial Pole Specialized in Economic and Financial Matters

It was created in 2015 by law Num 2015-02 of 13 January. The judicial pole is competent for the investigation, prosecution and adjudication of offences of economic and financial aspects which are or appear to be highly complex, including the large number of perpetrators, accomplices or victims, the importance of harm, etc. These offences are:

- Corruption;
- Misappropriation of public funds and goods;
- Subtraction of public or private money, effects or objects perpetrated by public depositaries or accountants;
- Illicit enrichment;
- Money laundering;
- Bribery and trading in influence;
- Fake cash;
- Scams;
- The abuse of social goods;
- Breach of faith;
- Fiscal and customs offences (fraud, smuggling, tax evasion);
- Bankruptcy and related offences;
- Offences related to the use of the check;
- Offences related to bank cards and other instruments and processes electronic payment;
- The interference of officials;
- Infraction of the freedom and equality of candidates in public market and public service delegations.

## VI. DIFFICULTIES IDENTIFIED IN THE FIGHT AND POSSIBLE SOLUTIONS

In this struggle, it is necessary to point out some difficulties and inadequacies and try to find them possible solutions.

### A. Difficulties

The fight against corruption meets some difficulties among which we can cite:

1. Weak Denunciation

There is very often a lack of complaint because corruption remains the domain of silence by excellence. Despite immense efforts done by the government to expand its legal and institutional framework for the fight against corruption and related offences, a number of limitations exist. The criminal code which penalizes both the briber and the corrupted thus limits the possibilities of denunciation but also the collaboration of the victims or perpetrators. To avoid this problem, it was necessary to grant a derogation to the briber to facilitate the denunciation. The lack of promotion and popularization of the texts contributes to the enfeeblement in the fight against corruption. This opens the way to misunderstandings and manipulations by the actors. The problem of coordination between the defence and security forces who arrest and the judicial police who accomplish the proceedings.

2. Weak Political Will

The political will at this level is faltering. The authorities want both a thing and its opposite. Most often in an indirect way we can note a laxity coming from the public powers. They hesitate to engage the prosecution against some agents because of their social or political rank.

3. Low Penalty

Even if corruption happens, people rarely denounce it. These cases undergo slight treatment because of the difficulty to show evidence. For the Nigerien context it is inconceivable that the briber comes to denounce the corrupt.

## **B. Legislative Reform and Technical Assistance**

These shortcomings deserve to be corrected for a better fight in accordance with international legal instruments.

### 1. Legislative Reform

There is a need to review our texts and harmonize them with international legal instruments already adopted. For this reform, the government must involve all the actors concerned by this question. The following reforms will strengthen anti-corruption measures in Niger:

- Adopt adequate measures to allow confiscation of corruption offences and extend the scope of these measures beyond money laundering. Specify the competent authority for the administration of property;
- Adopt the necessary measures to ensure protection against any unjustified treatment of any person who denounces corruption;
- Adopt appropriate measures to ensure the effective protection of witnesses, experts and victims;
- Take the necessary measures to lift bank secrecy for corruption offences<sup>3</sup>.

### 2. Need of Technical Assistance

In order to improve its anti-corruption arsenal, Niger wishes for better compliance with the UN conventions and technical assistance by elaboration of an action plan for their internal application:

- Anti-corruption experts;
- Cooperation with detection and repression services of foreign countries;
- Cooperation between national authorities and the private sector;
- Finance specialists;
- Formation of all actors involved;
- Bureaucratic means;
- Conclude bilateral or multilateral agreements or arrangements to establish joint investigations.

## **VII. CONCLUSION**

The phenomenon of migration related to corruption is complex and mobilizes actors whose posture and position may vary according to the issues and opportunities. This complexity is reinforced by the fact that the guilty parties are important actors in the fight against corruption. In view of these mentioned difficulties above, the establishment of operating synergies is essential to solve the challenge. And that goes through the necessary legislative reforms and technical assistance.

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<sup>3</sup> All these measures come from the review report by Mauritius and the Russian Federation of the application by Niger of the United Nations Convention against Corruption for the 2010-2015 Cycle